

NOT SO FAST MR. PRESIDENT: PUBLIC OPINION AND CONSTRAINTS ON MODERN
PRESIDENTIAL POWER

by

STEWART ULRICH

(Under the Direction of Jamie L. Carson)

ABSTRACT

How do presidents use their unilateral powers when there are little to no formal checks on these actions? And what role does public opinion play into that relationship? This dissertation looks to further our understanding of that relationship, and how factors such as elections, legacies, and partisanship come into play. The first section analyzes how presidential approval affects when the clemency power is used and finds that presidents care about elections and their legacy by issuing pardons and commutations after an election during lame-duck periods. The second section investigates, via an original survey experiment, how far people are willing to go to support a president who is potentially abusing their unilateral powers. It finds that partisanship is an important factor and clouds citizens' ability to check an in-party president. The third and final section also employs original survey questions to see how people feel about a president publicly criticizing the Supreme Court, a norm presidents usually do not break. It finds that partisanship also allows presidents to bring their partisans along in a separation of powers dispute. These findings further our understanding of the use of unilateral power and how public opinion fits into the equation.

INDEX WORDS: Presidential Power, Unilateral Power, Public Opinion, Modern Presidency

NOT SO FAST MR. PRESIDENT: PUBLIC OPINION AND CONSTRAINTS ON MODERN
PRESIDENTIAL POWER

by

STEWART ULRICH

B.A., Utah State University, 2016

M.S., Utah State University, 2020

A Dissertation Submitted to the Graduate Faculty of The University of Georgia in Partial
Fulfillment of the Requirements for the Degree

DOCTOR OF PHILOSOPHY

ATHENS, GEORGIA

2025

© 2025

Stewart Ulrich

All Rights Reserved

NOT SO FAST MR. PRESIDENT: PUBLIC OPINION AND CONSTRAINTS ON MODERN
PRESIDENTIAL POWER

by

STEWART ULRICH

Major Professor:	Jamie L. Carson
Committee:	Stephen Nicholson
	Gbemende Johnson

Electronic Version Approved:

Ron Walcott
Vice Provost for Graduate Education and Dean of the Graduate School
The University of Georgia
May 2025

ACKNOWLEDGEMENTS

First and foremost, thank you to my wife Emily who encouraged me to go down this road and pursue this degree. Without her suggestion, I would never have gotten to this point. I'm grateful to her and her support throughout my educational journey and for being the breadwinner while I finish my degree. You can retire now!

Next, I'd like to thank my committee members: Dr. Jamie Carson, Dr. Stephen Nicholson, and Dr. Gbemende Johnson. I appreciate all the time spent discussing and guiding this project and helping me take this from an idea to a finished product. I also appreciate all their support in the job market process, writing letters of recommendation, and answering all my questions about the process. I'd also like to thank Dr. Katelyn Stauffer for her help preparing for my interviews and helping me feel ready for them.

Thanks to my family for their support and for nurturing a lifelong love of learning and curiosity about things. I'm glad for all the visits they have made to Georgia during this time and all the fun memories we've made. I love nerding out with my brothers about airplanes, travel, and other things that Emily likes to say is "such an Ulrich thing." Here's to more travel and nerding out in the future.

Thank you to my professors at Utah State University, Josh Ryan and Damon Cann, for starting me on this journey and helping me get into the field of political science. Thanks for giving me the foundation and helping me apply to PhD programs, getting me here.

Thanks to Tabitha Lamberth for all her help learning how to work with survey data after I pivoted to a public opinion focus and answering all my questions. She should (maybe) get a co-author credit at this point. I've enjoyed all the times hanging out in each other's offices and her

pointing out everything that is so “on brand” for me. Now we’ve turned into collaborators on projects and here’s to working on many more in the future.

I’d like to thank my kitchen cabinet, Thomas Knighton and Braden Clinger, for all their support during this whole process. I will forever be grateful for their friendship. It has been so helpful to chat on Marco Polo about everything going on in my life and I’m glad I can rely on them for support. Thanks for being such great friends.

I’d like to acknowledge and thank my fellow cohort members: Elise Blasingame, Karlee Kimbrell, and Karson Ray. It’s been such a pleasure to get to know you and take classes with you, and now see what you each have done in your respective subfields. I can’t wait to see where you go in your careers and know that I’ll always be cheering you on!

I’d also like to thank Wendi Finch for all her help and support these past five years. She’s printed countless papers, answered all my questions, and been such a great support. I’ll miss her kind and cheery face. Thanks for being a good support!

Finally, I’d like to thank Jamie again for all his mentorship during this degree and process. I’m so grateful for his help shepherding me through this process and answering all my questions along the way. I’ve talked to other grad students at other universities, and they do not have as supportive and involved advisors as I do. Thank you for helping me get to this point!

TABLE OF CONTENTS

	Page
ACKNOWLEDGEMENTS.....	iv
LIST OF TABLES.....	vii
LIST OF FIGURES	ix
CHAPTERS	
INTRODUCTION.....	1
1 PARDON MY APPROVAL: DOES PUBLIC OPINION CONSTRAIN PRESIDENTIAL CLEMENCY?.....	8
2 IS THE PUBLIC AN EFFECTIVE CHECK ON PRESIDENTIAL USE AND “ABUSE” OF UNILATERAL POWER?	36
3 PUTTING THE BULLY IN BULLY PULPIT: PUBLIC SENTIMENT ON PRESIDENTIAL CRITICISM OF THE SUPREME COURT.....	57
CONCLUSION.....	83
REFERENCES	89
APPENDICES	
A APPENDIX FOR CHAPTER THREE	103

LIST OF TABLES

	Page
Table 1: Average Approval for Months when Issued Clemency	23
Table 2: Presidential Clemency Across Presidencies	23
Table 3: Fixed Effects Linear Models (1969-2025).....	26
Table 4: Fixed Effects Linear Models (1989-2025).....	27
Table 5: Fixed Effects Linear Models (1969-2025).....	29
Table 6: Joint Hypothesis Tests: Approval and Post-Elections (1969-2025	30
Table 7: Average Clemency per Month (1969-2025)	31
Table 8: Average Clemency Granted Pre- and Post-Election (1969-2025).....	32
Table 9: Average Clemency per Presidential Term (All Presidents 1969-2025)	32
Table 10: Average Clemency per Presidential Term (Two-Term Presidents 1969-2025)	32
Table 11: Survey Results on Conflict Between President and Supreme Court over Ruling on Executive Order by Party Identification.....	72
Table 12: Survey Results on Agreement of President’s Decision to Publicly Criticize by Party Identification	73
Table 13: Survey Results on Conflict Between Pres. Biden and the Court by Party Identification	73
Table 14: Survey Results on Agreement with Pres. Biden’s Decisions to Criticize the Court by Party Identification	74
Table 15: Survey Results on Conflict Between Pres. Trump and the Court by Party Identification ..	74
Table 16: Survey Results on Agreement with Pres. Trump’s Decisions to Criticize the Court by Party Identification	75
Table 17: Survey Results on Agreement with Pres. Obama Criticizing the Court via a Release by Party Identification.....	75
Table 18: Survey Results on Agreement with Pres. Obama Criticizing the Court in a State of the Union Address by Party Identification.....	76

Table 19: Survey Results on Agreement with Pres. Biden Criticizing the Court via a Release by Party Identification	76
--	----

Table 20: Survey Results on Agreement with Pres. Biden Criticizing the Court in a State of the Union Address by Party Identification.....	77
---	----

LIST OF FIGURES

	Page
Figure 1: Number of Total Clemency Granted per Month (1969-2025).....	24
Figure 2: Executive Order Question Results by Partisanship and Treatment.....	49
Figure 3: Signing Statement Question Results by Partisanship and Treatment.....	50
Figure 4: Pardon Question Results by Partisanship and Treatment.....	51
Figure 5: Difference in Means for Democrats on Executive Order Question.....	51
Figure 6: Difference in Means for Republicans on Executive Order Question.....	52
Figure 7: Difference in Means for Democrats on Signing Statement Question.....	52
Figure 8: Difference in Means for Republicans on Signing Statement Question.....	53
Figure 9: Difference in Means for Democrats on Pardon Question.....	53
Figure 10: Difference in Means for Republicans on Pardon Question	53
Figure 11: Proportion of Responses on Conflict Between Pres. Biden and Supreme Court over Executive Order Ruling by Party	78
Figure 12: Proportion of Responses on Agreement of President’s Decision to Publicly Criticize the Court by Party	79
Figure 13: Proportion of Responses for Conflict Between Pres. Biden and the Court by Party.....	80
Figure 14: Proportion of Responses on Agreement with Pres. Biden’s Decision to Criticize the Court by Party	80
Figure 15: Proportion of Responses for Conflict Between Pres. Trump and the Court by Party	81
Figure 16: Proportion of Responses on Agreement with Pres. Trump’s Decision to Criticize the Court by Party	81
Figure 17: Proportion of Responses on Agreement with Pres. Obama Criticizing the Court via Release by Party	82
Figure 18: Proportion on Agreement with Pres. Obama Criticizing the Court in a State of the Union Address by Party	83

Figure 19: Proportion of Responses on Agreement with Pres. Biden Criticizing the Court via Release by Party.....	83
--	----

Figure 20: Proportion of Responses on Agreement with Pres. Biden Criticizing the Court in a State of the Union Address by Party.....	84
--	----

INTRODUCTION

Less than a month into his second term as president, Donald Trump posted on social media a quote sometimes attributed (but with no concrete sources) to the Emperor Napoleon: “*He who saves his Country does not violate any Law.*”¹ This set off a conversation about presidential power and what, if anything, the public and elected officials would do to push back.² The debate about the use of presidential power is nothing new. Another president, William Howard Taft, wrote this about presidential power after leaving the office: “*The President can exercise no power which cannot be fairly and reasonably traced to some specific grant of power or justly implied and included within such express grant as proper and necessary to its exercise.*”³ This use of power has been debated and considered since the founding of this country. The founders had just rejected a king and were understandably wary of placing too much power in the hands of a single individual. Thus, a system of separation of powers was created to decentralize the control of the federal government into several sources. The legislative and judicial branches were set up to be able to constrain the use of presidential power and vice versa.

How does a president operate within this system of constraints? Presidents throughout history have taken the powers granted in the Constitution and expanded them as they sought to accomplish their governing goals (Howell 2003). This expansion of power led one former presidential advisor to dub the office an “Imperial Presidency” (Schlesinger, Jr. 1973). Opponents of each successive officeholder bemoan how the president has overstepped his (and someday her) bounds and circumvented Congress by use of executive orders, signing statements, or other manner of unilateral actions. Presidents are painted as a runaway freight train, drunk on their own power.

¹ Tweet from @realDonaldTrump, February 15, 2025, <https://x.com/realDonaldTrump/status/1890831570535055759>

² Dace Potas, “Trump thinks he’s above the law. Republicans will ignore it until it’s too late. Opinion,” *USA Today*, February 17, 2025, <https://www.usatoday.com/story/opinion/columnist/2025/02/17/trump-tweet-law-violation-republican-party/78783793007/>

³ *Our Chief Magistrate and His Powers*, William Howard Taft, 1916, New York: Columbia University Press

Are these uses of presidential power really that out of control? Is there anything to truly stop a president from using their powers in such a tyrannical manner?

Yet, as mentioned previously, none of these actors operate in a vacuum. Our system of government was intentionally set up as a separation of powers. Each of the three branches shares the power so it is not used in a corrupt fashion. The question then becomes: in light of the current state of political affairs, does this system of power sharing actually work? How does each branch constrain the other? What pulls a president back from using unilateral action to circumvent the other branches? We know that presidents, especially modern ones, come into office by making sweeping promises to the country, many of which are beyond the scope of their office. We also know that these promises often go unfulfilled. Are these just mere illusions of power? Or are there actual aspects that constrain the president's use of unilateral power?

It has been found that Congress is effective at constraining the president and that relationship has been well documented over the years through scholarly work.⁴ Congress has oversight over the executive branch and has the power to subpoena testimony and documents, which has become more and more polarized in recent years. This is effective and does constrain the executive branch, as agencies within that branch do change the quantity of their rules as congressional oversight increases or decreases (Potter and Shipan 2019). Also, the number of executive orders a president issues is affected by the amount of congressional oversight. When oversight is greater, presidents are less likely to issue executive orders to try to go around the legislative branch (Bolton and Thrower 2016).

On the opposite side, presidents can also constrain the legislative branch. Presidents have the advantage of being a single person as opposed to one of the 535 members of Congress, which

⁴ See, e.g., Potter and Shipan (2019), Bolton and Thrower (2016), Sievert and Ostrander (2017), Howell and Pevehouse (2005).

makes it easier to grab the spotlight and have your voice cut through the noise. Commanding the public is feasible through Teddy Roosevelt’s “Bully Pulpit” and what Richard Neustadt claimed was a presidential power to persuade members of Congress to their position (1960). Presidents also have the negative veto power to prevent bills passed by Congress from becoming law, which they can use to bargain and negotiate with members of Congress on policy (Cameron 2000). The president’s veto is a “pivotal point” in the legislative bargaining process that must be considered by congressional actors when trying to enact policy (Krehbiel 1998).

Gardner and Thrower (2023) maintain that the scholarship on separation of powers has focused mostly on the role of Congress and much more literature than has been cited here has looked at the constraints between Congress and the president.⁵ Indeed, we know that Congress is able to constrain presidential unilateral power (Bolton and Thrower 2016). But what of other constraints?

What can the public do to stop or constrain a president using the powers in a manner they disagree with? The public is an important part of the political system, as they are both the customer and employer. My aim with this dissertation is to study how the modern presidency is constrained by the public from using unilateral powers and how public opinion factors into that relationship. We know the Constitution offers the head of the executive branch wide latitude to direct the federal government and preside over the nation. The president is granted the authority to see that the laws are faithfully executed and enforced to keep the peace. There are many arrows in the president’s unilateral quiver: pardons, signing statements, executive orders, and appointments just to name a few. Each help the president achieve their policy objectives and take more immediate action than waiting for Congress to pass a bill—especially in the current age of highly polarized politics.

⁵ For a general summary of this literature, see Howell and Pevehouse (2007) and Kriner and Schickler (2016)

The public plays an important role for the president and the institution of the presidency as a whole. Public opinion is an important metric that allows presidents to move forward on their agenda. Public approval of the president helps determine the president's political capital and leverage to implement their policy agenda (Ponder 2017). Presidents compete for this public attention with the media but if the president's popularity is high, the president is more likely to win that battle for attention (Wanta 1991), and they are reactive to their approval ratings for what it means for their public standing (Brace and Hinckley 1991). This approval rating has real, tangible effects, as a more popular president has more legislative success in Congress (Canes-Wrone and de Marchi 2002; Rivers and Rose 1985).

Public opinion has electoral effects as well; presidential approval is one of the strongest predictors of a president's reelection (Abramowitz 1996). Even if a president is not up for reelection, congressional elections have become more nationalized; attitudes about the president factor more into congressional races and can affect the partisan majorities in Congress and thus the ability of the president to accomplish their agenda (Carson, Sievert, and Williamson 2023; Hopkins 2018). Presidents also care about their legacy and their agenda, wanting a copartisan to succeed them in the office; the outgoing president's approval rating is an important predictor of whether a fellow partisan follows them into the Oval Office (Abramowitz 2016). Presidents recognize this important relationship, and will go to the public to make a play for public support and hope constituents will contact their members of Congress to get a policy passed (Kernell 2007).

Public opinion is starting to become recognized as an important factor in checking institutions, particularly the presidency. In a volume that is sure to be seen as a seminal work in the field of presidency studies, Christenson and Kriner (2020) write in *The Myth of the Imperial Presidency* that, despite fears to the contrary, an imperial president can be held at bay by the public. In fact, they write that the other branches, Congress and the courts, have been ineffective at checking unilateral

power; the public is the only check on presidential unilateral power. The authors set up the role of public opinion well, by stating that the president anticipates public opinion when considering unilateral action. They note that a “key component of this calculation is domestic public opinion. Will voters rally around unilateral action? Or will they punish a president who pushes too aggressively on the bounds of his or her authority?” Furthermore, they describe the importance of public opinion to the presidency, by stating “the president’s standing among the public is perhaps the most ubiquitous and salient measure of a president’s political capital and thus ability to advance his or her agenda in Washington.” By looking at it from this angle, we see the importance of the public and what role public approval plays in the president’s calculation of support.

Presidents themselves have stated the importance and power of public opinion in our system of government and politics. In the months leading up to his reelection in 2012, President Barack Obama was up against a Republican-held Congress that stymied his agenda. He realized the importance of public opinion and how that could help him pass his agenda. He mentioned to an advisor his new strategy, saying “From here on out, I have to take my case to the American people.”⁶ In a speech before he became president, Abraham Lincoln stated, “Our government rests in public opinion. Whoever can change public opinion, can change the government, practically just so much” (Basler 1953). Presidential scholar George C. Edwards placed the importance of public opinion to the president in context when he wrote that to “bring about change, presidents generally require broad public support for the general direction of their initiatives” (2016). Even the Emperor Napoleon, referenced by President Trump, understood the importance of public opinion, describing it as “the thermometer a monarch should constantly consult” (Bertaut 1916). Though not monarchs,

⁶ Carol E. Lee and Monica Langley, “A More Worried Obama Battles to Win Second Term,” *The Wall Street Journal*, August 21, 2012, <https://www.wsj.com/articles/SB10000872396390443864204577621424114535022>

presidents have great authority granted by the constitution and it is the public's role to keep it in check.

The purpose of this research is to better help us understand the public's role in constraining presidential power. The institutions have checks and balances in our system of separation of powers, which was by design from the framers of the constitution. Yet what they probably did not expect was how influential the public could be in our governmental system. Public opinion can and does act as a non-institutional check on power. We will find out how presidents use their clemency in accordance with their approval, the effect partisanship has on the ability to check abuse of power, and how the public follows a president when they criticize the Supreme Court. These sections of this dissertation will better our understanding of the public's role in our political system and how presidents respond to such public opinion. In our modern political environment where the public can be better informed than ever of the president's actions, public opinion is sure to be an important factor for presidents to pay attention to for years to come.

The first chapter will look at how the president's most important public metric, the presidential approval rating, and how it affects the issuance of clemency, a unilateral power. Does the public's support for the president influence when they decide to wield one of their most unchecked powers? The theoretical expectations are that the president will wait until they have a lot of public support before issuing a pardon or commutation, and issue less of those when approval is low. The findings indicate presidents are swayed less by the day-to-day levels of an approval rating and are more influenced by concerns over elections and their legacy.

The second chapter then looks at how partisanship plays into the relationship between public opinion and presidential unilateral powers. Often, we hear opinions and attitudes change about presidents depending on which party controls the office; is it the same for unilateral powers? Will the public change their mind when presented with the same unilateral powers but with

presidents of different parties? Using an original survey experiment, I test this question to see how the public reacts to presidents of different parties using the same unilateral powers. The results will show that partisans react to their presidents positively using the power and negatively to the opposite-party president using it. This contributes to our understanding of where the public is, regarding presidential unilateral power, in today's polarized and partisan environment.

The third and final chapter takes a closer look between partisanship and public opinion by focusing on the president's relationship with the Supreme Court. Traditionally there has been a norm of presidents respecting judgment from the Court, even if they disagreed with them. Yet, we see modern presidents be more willing to publicly criticize the Court and its rulings. How do partisans react to such behavior? The results will show that partisans are led by their president. This gives us insight how much presidents can sway public opinion and how partisans will react to crossing the lines of separation of powers.

The conclusion will look at what all these three chapters mean and how they work together to give a better understanding of presidential power and public opinion. These are two strong, and sometimes opposing, forces and affect each other. The modern presidency has unilateral powers at its disposal, as well as communication technology to speak to the public. As citizens become aware of the president's actions, they can form an opinion on such actions. This conclusion will end the dissertation by tying all these points together and what it means for our country moving forward.

CHAPTER 1

PARDON MY APPROVAL: DOES PUBLIC OPINION CONSTRAIN PRESIDENTIAL CLEMENCY?

Introduction

On August 8, 1974 embattled President Richard Nixon announced to the world that he would resign from office in the wake of the Watergate saga, with *The Washington Post* reporting he “bowed to pressures from the public and leaders of his party to become the first President in American history to resign”⁷. The scandal had stretched since his reelection almost two years earlier and led to articles of impeachment being filed in Congress. After seeing the writing on the wall, Nixon spared the nation a long and lengthy impeachment trial. Yet the question of criminal charges and an ensuing trial loomed over him. Never before had a former president been charged with a crime after leaving office (a record recently broken by Donald Trump). Legal consensus seems to be that a sitting president cannot be charged with a crime (Amar and Kalt 1997), but what about a former president?

While this conversation took place, a month later on the morning of Sunday September 8, 1974, newly installed president Gerald R. Ford shocked the nation with an address from the Oval Office. Facing the cameras that morning, Ford announced words that would be debated for decades to come:

“Now, therefore, I, Gerald R. Ford, President of the United States, pursuant to the pardon power conferred upon me by Article II, Section 2, of the Constitution, have granted and by these presents do grant a full, free, and absolute pardon unto Richard Nixon for all offenses against the United States

⁷ Carroll Kilpatrick, “Nixon Resigns,” *The Washington Post*, August 9, 1974, <https://www.washingtonpost.com/wp-srv/national/longterm/watergate/articles/080974-3.htm>

which he, Richard Nixon, has committed or may have committed or taken part in during the period from July (January) 20, 1969 through August 9, 1974.”⁸

The announcement was a shock to a nation still reeling from the sudden change in presidential leadership and it became the most famous pardon in American history⁹. Nixon had not even been indicted, nor had an American president been pardoned before, which made the entire situation unprecedented. In response to the pardon announcement, Ford’s Gallup approval rating dropped 21 points, the sharpest decline in approval for any president up to that point since Gallup started measuring presidential approval¹⁰. Some even speculate the pardon may have cost Ford his re-election two years later (Crouch 2009; Toobin 2025) but many current-day historians look back at the pardon as the right decision by the president¹¹. This anecdote raises a fundamentally important question about presidential power and legacies: Could presidents’ public approval be connected to their clemency actions?

Our most recent president to leave office, Joe Biden, used the clemency power quite vigorously on his way out the door. He issued pardons not only to family members such as his son and siblings, but also preemptive pardons to those he felt the incoming Trump administration might target. Interestingly, Biden waited until the lame-duck period after the election had passed to issue these notable pardons, raising questions about his legacy in the process (Ulrich 2025). Biden’s pardons at the end of his term further point to a relationship between presidents’ public standing and their clemency actions. President Trump, in his second term in office, has also used the

⁸ “President Gerald R. Ford’s Remarks on Signing a Proclamation Granting Pardon to Richard Nixon,” Gerald R. Ford Presidential Library & Museum, September 8, 1974, <https://www.fordlibrarymuseum.gov/the-fords/gerald-r-ford/key-speeches-and-writings-gerald-r-ford>

⁹ Lulu Garcia-Navarro & Ron Elvig, “Notable Presidential Pardons in American History,” *NPR*, May 20, 2018, <https://www.npr.org/2018/05/20/612747667/notable-presidential-pardons-in-american-history>

¹⁰ Clifton Daniel, “Ford’s Gallup Rating Off 21 Points After Pardon,” *The New York Times*, October 13, 1974, <https://www.nytimes.com/1974/10/13/archives/fords-gallup-rating-off-21-points-after-pardon-unexpected-wounds.html>

¹¹ Laura M. Holson, “No One Could Believe It: When Ford Pardoned Nixon Four Decades Ago,” *The New York Times*, September 8, 2018, <https://www.nytimes.com/2018/09/08/us/politics/nixon-ford-pardon-watergate.html>

clemency power in notable ways, including granting it to most of those convicted for offenses related to the January 6th attack on the Capitol. He even criticized Biden’s late-term pardons as “void” due to the use of auto-pen.¹² Pardons have become a major tool for recent presidents.

While Ford’s pardon of Nixon is notable, most presidential grants of clemency are not nearly as salient. Some presidents issue hundreds of clemency grants each year and most do not garner widespread media coverage and public attention. To whom presidents grant clemency is completely up to them. The Constitution offers few restrictions and there are no formal institutional checks on the power. The founders virtually endowed the office of the president with a king-like power, allowing the president to forgive federal crimes.

The clemency power is one presidential unilateral power that has not been studied by scholars as extensively as the other powers (but see Crouch 2009, Ruckman 1997, 2008, 2012 for existing work). Yet the pattern of recent presidents show that they wield it with conviction, granting pardons or commutations to people in their administration or individuals who are the benefit of an intense lobbying campaign. Ford’s pardon of Nixon is the exception, not the rule, as most pardons do not make national headlines. Some presidents use it frequently while others much less; where does it stand in terms of the presidential toolkit?

This unilateral power is often overlooked by many, but it may be more powerful than we have been led to believe. What makes it so interesting is that it is a power specifically granted in the Constitution and does not have any formal institutional checks; there is nothing Congress or the courts can do to undo or block a pardon. As one legal analyst put it, “the pardon clause is relatively unique to the extent that the scholarly and popular consensus appears to be that the power is unlimited...” (Wehle 2024). Considering the Supreme Court’s recent ruling in *Trump v. United States*,

¹² Shawn McCreesh, “Trump Says Biden’s Pardon are ‘Void’ and ‘Vacant’ Because of Autopen,” *The New York Times*, March 17, 2025, <https://www.nytimes.com/2025/03/17/us/autopen-pardons-biden-trump.html>

which gave presidents immunity from prosecution for official acts taken while president, we can now view the pardon power as more powerful than ever. As mentioned, the clemency power is an official act outlined in the Constitution. This ruling is new and its implications are yet to be fully understood, but could it mean a president would be able to accept a bribe or gift in exchange for a pardon? Could presidents promise pardons to underlings to commit crimes? Giving immunity for official powers such as clemency opens the door for presidents to wield them without concern for legal consequences.

With no institutional checks on the power, it begs the question, what constrains presidents from using this unilateral power? The number of pardons and commutations varies greatly among presidents. If they are free to use it how they choose, what accounts for this variation? As one legal analyst put in, “Pardons are the consummate discretionary acts; presidents are never required to issue even a single one...For better or worse, pardons operate like X-rays into the souls of presidents” (Toobin 2025). Due to the optional nature of this unilateral power, it opens the question of why they use the power when they do. I argue in this chapter that public opinion is what constrains presidents from using this unilateral power. Presidents care about their prestige and their standing with the public and it affects how they can leverage it to pursue their political agenda. The verdicts of the electorate are powerful motivators for presidents, and enough to wait to use such unchecked powers such as clemency until after elections. By being responsive to their own public approval, presidents can accomplish more of what they want and not risk ruining their reputation, and with it their agenda and electoral chances for themselves and their party.

Public opinion has long been an important factor for politicians and where they should steer their agenda (Sevenans 2021; Soroka and Wlezien 2010). Presidents have never been unaware of their public standing and what it means for their policy plans. Scholars have shifted our understanding of the importance of public opinion for presidents and their unilateral powers. New

research has shown the importance of public opinion to constraining presidential unilateral action (Christenson and Kriner 2020; Reeves and Rogowski 2022). As such, I believe this is the correct frame to understand when and why presidents use their clemency pen.

History of Presidential Approval and Clemency

Systematic polling regarding the public's feeling of the president's job performance has been in place since the presidency of Franklin D. Roosevelt, when George H. Gallup released a poll capturing Americans' opinions on New Deal programs. The 1930s was the first time presidential approval began to be scientifically polled and it was solidified at the beginning of Harry S. Truman's presidency. With the question "Do you approve or disapprove of the way [president's name] is handling his job as president?" Gallup as an organization has been polling presidential approval ever since (Newport 2021). Presidential approval is seen as one of the most important time series in U.S. polling with some scholars called it "likely the most well-understood public opinion measure in popular American culture" (Newport and Saad 2021).

Presidents generally come into office with high ratings and then it gradually declines over their presidency¹³. Some presidents buck this trend, including Barack Obama and Bill Clinton who ended their second terms with a 64% and 59% approval rating respectively (Gronke and Newman 2003). Donald Trump's approval rating during his first term, as with other aspects of his presidency, was unprecedented. He ended his first term at 34%, his lowest, and averaged at 41%, lower than any of his predecessors in Gallup's polling era¹⁴. Joe Biden did start his presidency above 50% but it went steadily downhill during his tenure in office. At the end of November 2021, Biden's approval

¹³ Olivia B. Waxman, "The History of Presidential Approval Ratings," *Time*, January 24, 2019, <https://time.com/5511118/presidential-approval-ratings-history/>

¹⁴ Jeffrey M. Jones, "Last Trump Job Approval 34%; Average is Record-Low 41%," Gallup, January 18, 2021, <https://news.gallup.com/poll/328637/last-trump-job-approval-average-record-low.aspx>,

rating was lower than any modern president except for Trump¹⁵. Yet the increase of partisan polarization leads scholars to suggest less variation of presidential approval in the future, fewer so-called rally events, and the possibility that approval could be more a function of party loyalty (Newport and Saad 2021). Going into the final months of his 2024 reelection campaign, Biden's approval was extremely low and was seen as a warning sign for the Biden campaign¹⁶, which might have contributed to him dropping out of the race.

Scholars have worked to explain what affects presidential approval and how the public evaluates the president's job performance. A few of the well-known factors that affect presidential approval are the economy, rally round the flag moments, and war (Brace and Hinckley 1991; Kernell 1978; Mueller 1973). An analysis of approval from Harry S. Truman to Lyndon B. Johnson found a popularity decline of five or six percentage points for every year since the last rally round the flag event and a three percentage point decline for every percentage point rise in the unemployment rate. War had a mixed effect: the Korean War had a large negative impact but the Vietnam War did not (Mueller 1970). Another analysis found that presidential approval is related to real events and responds slowly to environmental change, concluding that presidential popularity is both experiential and incremental (Kernell 1978). Indeed, dramatic events such as scandals can move approval as the media coverage of the event leads citizens to incorporate the event into their judgement of the president. An analysis of Ronald Reagan's popularity during Iran-Contra found the scandal did in fact loom larger in the public's assessment of his performance after the scandal was revealed (Krosnick and Kinder 1990). A large rally event, the terrorist attacks of 9/11, caused George W. Bush's approval rating to rise to the highest ever recorded, 90%. An analysis of this time period

¹⁵ Philip Bump, "Will America Ever See a Wildly Popular President Again?," *The Washington Post*, November 30, 2021, <https://www.washingtonpost.com/politics/2021/11/30/will-america-ever-see-wildly-popular-president-again/>

¹⁶ Jeffrey M. Berry & Megan Brennan, "Political, Economic Indicators Not Promising for Biden," Gallup, February 16, 2024, <https://news.gallup.com/poll/610349/political-economic-indicators-not-promising-biden.aspx>

found that events such as 9/11 heighten the link between national identity and presidential approval, but it fades over time as politicians make partisan identities more salient (Kam and Ramos 2008).

The public learns about issues and events depending on their salience and that affects how those go into the evaluations of the president. For an issue to have an influence on ratings of the president's job performance it must be salient enough for the public to be aware of it. Issues do vary over time in their salience and in their impact on presidential approval, and the salience of issues to the public directly affects their impact on the public's evaluation of the president (Edwards, Mitchell, and Welch 1995). Even salient events irrelevant to politics, such as sporting events, can have a short-term effect on presidential approval by affecting the public's moods (Busby, Druckman, and Fredendall 2017). College sports games also influence evaluations of government performance. A win 10 days before election day causes the incumbent to receive an additional 1.61 percentage points of the vote in Senate, gubernatorial, and presidential elections all else equal; wins and losses also affect presidential approval (Healy, Malhotra, and Mo 2010).

Although the economy is reported to be an important factor in presidential approval, recent analysis finds that economic evaluations have become less important for presidential approval over time. This is affected by partisan polarization; happening first among out-partisans and then later among in-partisans (Donovan et al. 2020). An even more recent analysis of Trump's presidency found that the economy and events do still matter for presidential approval, even with partisanship accounted for. Republicans' approval and strength of their approval of Trump tracked with the performance of the stock market and perceptions of the economy. For both Democrats and Republicans, they rewarded and punished Trump via approval ratings after major events (Newman and Otto 2021).

Many scholars believe that the modern presidency has grown in power and has become an "imperial" presidency. This argument states that the presidency has grown out of control and

exceeded the parameters of the constitution (Schlesinger, Jr. 1973). In fact, the institution of the presidency has grown over the years, particularly in the 20th century, and emerged fully in the 1970s (Ragsdale and Theis 1997). One study of executive orders found that while the institution of the presidency was developing, the president has been freer to act on his (and someday her) own. Once the institution has emerged, it has served to constrain presidential behavior (Krause and Cohen 2000).

In their book *The Myth of the Imperial Presidency*, Christenson and Kriner show that while the modern presidency has grown and institutional constraints have become less powerful, there is still an informal check on unilateral power: public opinion. They argue that when contemplating using unilateral action, presidents anticipate the public more than the actions of Congress or the courts. They also consider the long-term consequences of using unilateral action for their other priorities and a key component of that is public opinion. Even though public opinion is not a direct institutional action that can be used, it still constrains presidential behavior because “the president’s standing among the public is perhaps the most ubiquitous and salient measure of a president’s political capital and thus ability to advance his or her agenda in Washington.” Public opinion is the primary check on the unilateral executive (Christenson and Kriner 2020). Another study found that public opinion may constrain presidential unilateral action (Kaufman and Rogowski 2018).

Another influential book on the relationship between unilateral action and public opinion is *No Blank Check*, by Reeves and Rogowski. The authors, building upon the work of Christenson and Kriner, show how citizens do hold presidents accountable for how they wield their unilateral powers. As the title of the book suggests, presidents are not given a “blank check” to make these unilateral actions, although there might not be formal institutional checks to stop them. These scholars show how the public is not only aware of unilateral power of presidents, but skeptical of it. That skepticism leads the public to punish and constrain such action (Reeves and Rogowski 2022).

Presidents need the support of the public to accomplish their agenda and govern in their preferred direction. This creates a constraint on their power. “Though presidents want the freedom to lead as they see fit, especially to carry out their program and preferred policies, their need for public support constrains them. Presidents must show some level of responsiveness to the public to garner the support necessary to get their policies implemented” (Cohen 1997). Why must presidents be responsive to public opinion? “U.S. Presidential responsiveness to public preferences is conceptually quite simple: The president represents a national constituency and is expected to follow national preferences” (Soroka and Wlezien 2010). There is a strong relationship between presidential approval and aggregated public opinion, both across presidents and within presidential terms (Stimson, Mackuen, and Erikson 1995). Even presidential rhetoric is responsive to public opinion, particularly in the second term (Rottinghaus 2006).

Presidential approval generates policy influence for presidents, specifically helping them do better in Congress. When presidents have higher approval they have better success in passing a legislative agenda in Congress (Cohen 2013). Public salience and issue complexity determine how presidents can capitalize on approval in Congress (Canes-Wrone and de Marchi 2002). When the president’s approval rating increases, the president’s ability to shape the substance of bills in Congress also increases (Barrett and Eshbaugh-Soha 2007). Popular presidents can also leverage that popularity to direct the focus of Congress and set the agenda. Looking at State of the Union addresses, a team of scholars found that popular presidents can shift the attention of Congress to topics they talk about, something that is mediated by divided government. However, no matter the state of divided government, they state that popular presidents do direct congressional attention, at least for a little while. Unpopular presidents have no effect on agenda setting (Lovett, Bevan, and Baumgartner 2015). Divided government can also boost presidential approval ratings and be a boon for presidents. When there is divided government, the probability the public approves of the

president's job performance increases. This effect is stronger among citizens who are knowledgeable about control of government (Nicholson, Segura, and Woods 2002).

Presidents may worry about using too much unilateral action, which could be seen as an abuse of power. But citizens approve of actions if they are institutionally allowed, which pardons are since that power is spelled out in the Constitution (Braman 2016). Presidential approval is a desirable commodity and one that presidents actively seek (Brody 1991). It is desirable because it affects their reelection prospects as well as legislative success (Donovan et al. 2020). Presidential approval strongly predicts electoral votes (J. E. Campbell 2016). Even after an election, high approval ratings can justify a mandate and provide political capital for passing policies (Bond, Fleisher, and Wood 2003). The president's conformance with national public opinion is much more likely as an election approaches, particularly among popular presidents when their popularity is decreasing. The opposite is true with unpopular presidents when their popularity is on the rise (Canes-Wrone 2006).

For presidential clemency, the president has a few options when deciding how to forgive federal crimes. The two main avenues a president can issue are a pardon, which grants complete forgiveness of a crime and restoration of citizenship rights, and a commutation, which is a reduction of punishment but keeps the conviction in place¹⁷. This power is one of the few specifically granted the president in Article II Section 2 of the Constitution, stating the president may “grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.”

While the Constitution did not set up a formal structure for presidents to pardon, an infrastructure has been established in subsequent years. Within the Department of Justice is the Office of the Pardon Attorney, which was created on March 3, 1865. This office receives and reviews all petitions for executive clemency and does any necessary investigations into those

¹⁷ Office of the Pardon Attorney, Frequently Asked Questions, <https://www.justice.gov/pardon/frequently-asked-questions>

applications. Recommendations are then prepared and sent to the president who makes the final call. The president does not need to accept the recommendations and can issue a pardon to someone outside of the structure, as the power is “unlimited and unqualified” (Stanish 1978). The founders purposely set up the clemency power in this manner, as Alexander Hamilton wrote in Federalist No. 74: “Humanity and good policy conspire to dictate, that the benign prerogative of pardoning should be as little as possible fettered or embarrassed.”¹⁸

When do presidents issue clemency? One analysis of clemency from 1931 to 2008 found the largest number of pardons were granted in the month of December (Ruckman 2008). The presidential pardon power is unique because, “unlike with the exercise of the power to remove inferior officers or withhold documents, the pardon power as a textual matter appears beyond the reach of congressional revision or judicial oversight.” Further, “the Constitution vests the president with broad discretion in determining when and why to grant pardons” (Krent 2005).

Link Between Presidential Clemency and Approval

Why does a president’s approval rating affect when they issue grants of clemency? The power of clemency, given to the president in the Constitution, is a unilateral power allowing the president to pardon or commute the sentence of anyone they choose with no formal checks. The framers even envisioned the clemency power invested in the president as a check itself, on the judicial branch, to correct an injustice if someone was wrongfully or harshly sentenced. By giving the power to one person rather than a group such as Congress or a panel, the Framers wanted quick and nondebatable action for helping people in the justice system.

Given the clemency power is itself a check on the other branches of government, presidents have no guardrails on the use of this power. Each president has approached the use of clemency

¹⁸ The Federalist Papers: No. 74, Alexander Hamilton, March 25, 1788, Archived by the Avalon Project: https://avalon.law.yale.edu/18th_century/fed74.asp

differently: George H.W. Bush issued very few during his four years in office while Barack Obama's administration created a second term initiative to commute sentences of low-level, non-violent drug offenders, even inviting inmates to apply for clemency¹⁹. What causes this variation and constrains presidents from using this power? As Christenson and Kriner write, public opinion is the primary check on the unilateral executive and has largely succeeded in reining in presidents when formal institutional checks have not (2020).

Clemency can cause a change in public opinion depending on who the recipients are, with several high-profile pardons causing great public interest, the Nixon pardon being the most famous. Most modern presidents have issued an act of clemency that became controversial and angered many in the public; many of those are in the final months of a president's term. As was shown with the opening anecdote involving Ford, a pardon has the ability to move a president's approval and affects their legislative and electoral success. Presidents and their staff are aware of using unilateral action and while citizens generally approve of presidents using their levers of power, too much or in the wrong moment can lead to accusations of abuse of power. With this mindfulness of their approval and standing with the public, presidents are aware of when they should use power and when not to.

Presidential approval is a well-known and watched metric of how presidents are faring on the job. As noted previously, Gallup has been polling about presidential job approval since Franklin D. Roosevelt was in office. When a president has a high approval rating, they feel buoyed by the public support and emboldened to use their presidential power. When their approval rating is low, their political capital is also low, and they do not have considerable support of the public. At this point, presidents and their staff will not want to take any action to further anger the public, such as a

¹⁹ Obama Administration Clemency Initiative, <https://www.justice.gov/archives/pardon/obama-administration-clemency-initiative>

controversial pardon. Each and any pardon could become controversial, as the media and public could learn something contentious about the recipient and turn it into a scandal.

With the advent of the bureaucratic system to apply for and vet clemency requests, presidents also can deny a clemency request. Little to no research has investigated why or when presidents issue clemency denials. The Department of Justice does vet and send suggestions to the White House and does publish the number of denials each president has issued per year. While the denials are in the thousands each year, there could be a small relationship between denials and approval. I expect to see some decrease in denials as approval increases, the inverse of clemency grants, as presidents want to use the power responsibly and not be seen as overly punitive.

For the main relationship, I expect clemency to increase as approval increases, and clemency to decrease as approval decreases. I expect there to be a significant amount of clemency granted after a presidential election. We know that presidents are strategic about using executive actions around elections (Lowande 2024), and if they just won reelection, have lost the election, or are leaving office after two terms they do not have to face voters again. This causes presidents to feel less accountable and public opinion has less an effect on them as their terms are almost up.

There also is a timing aspect to pardon and commutation grants from presidents. Elections, especially for first-term presidents, are a crucial marker for their agendas. Presidents often save their large policy initiatives for their second term since, due to the 22nd Amendment to the Constitution, they do not face the approval of voters again. President Obama demonstrated this with a large second term clemency initiative, issuing clemency to over 1,000 low-level non-violent drug offenders, more than the 11 previous presidents before him²⁰. This connection between election

²⁰ Sari Horwitz, “Obama grants 79 more commutations to federal inmates, pushing the total past 1,000,” *The Washington Post*, November 22, 2016, https://www.washingtonpost.com/world/national-security/obama-grants-79-more-commutations-to-federal-inmates-pushing-the-total-past-1000/2016/11/22/1c7b5710-b0db-11e6-840f-e3ebab6bcd3_story.html

timing and public support is important because as “public opinion on crime reduction fluctuates, pardons can become a liability, particularly if a president or governor is up for reelection” (Wehle 2024).

Presidents often issue their clemency after an election in their lame-duck period, during December (Ruckman 2008). The lame-duck period is known as a time for more substantive action than the rest of their term, as they are free from the electorate’s scrutiny (Lowande 2024) and when presidents issue their most controversial pardons and commutations (Wehle 2024).

Another possible explanation aside from electoral accountability is legacy effects. Presidents not only care about their public standing but also their legacy and how they will be viewed after they leave office (Shenkman 2000). As presidential scholars Howell and Moe put it, “to their core, presidents care about their legacies. They play to the ages.” This is because presidents “ultimately want to be regarded as great leaders. They want future generations to exalt them” (Howell and Moe 2020). Presidents use their political capital to pass policies that will set up a good legacy for them long after they have left the White House (Skowronek 2020). Thus, presidents can employ the clemency power, an unfettered and unchecked unilateral power they can use at their sole discretion, to build their legacy. By commuting long sentences or giving someone a long overdue pardon, presidents can and do issue many clemency grants on their way out of office to bolster their image as a wise and compassionate leader. George H.W. Bush used the pardon pen in this manner when he issued pardons to those caught up in the Iran Contra investigation, including Secretary of Defense Weinberger. These pardons were issued, notably, on Christmas Eve of 1992, after Bush had already lost reelection (Gillen 1998).

Given these theoretical reasons, I expect to see the following hypotheses:

Hypothesis 1: As presidential approval increases, presidents will issue more pardons and commutations. When presidential approval decreases, presidents will issue less pardons and commutations.

Hypothesis 2: As presidential approval increases, presidents will issue less clemency denials.

Hypothesis 3: Presidents will issue more clemency after an election when they are in a lame duck period (after losing reelection or after a second term election).

Hypothesis 4: Presidents will issue more clemency in their second term than their first term.

Data and Methods

This project will analyze the clemency of presidents for which data are publicly available. Department of Justice records for clemency grants go back to Richard Nixon and through Joe Biden. This spans a time period of 1969 to January 2025.²¹ The unit of observation is at the monthly level; The main dependent variable here is monthly grants of presidential clemency, compiled from the Department of Justice clemency statistics website.²² The first set of models includes all types of clemency—pardons, commutations, and total—to test whether the certain types of clemency are more responsive to public opinion than the other. The main independent variable is monthly presidential approval, as provided by Donovan, Kellstedt, Key, and Lebo (2023). Other independent variables include whether a clemency grant occurred after an election when the president is leaving office,²³ in the second term, and during a period of divided party government, which is coded as divided if one or both chambers of Congress was held by the opposing political party. Table 1 shows the average presidential approval in months that a president has issued an act of clemency. Table 2 shows the total pardons, commutations, and total grants of clemency for presidents in the dataset.

There are 674 months in the dataset, spanning the presidents from Nixon to Biden. During this timeline there were 3,642 pardons issued and 6,187 commutations. Combined, there was a total

²¹ Biden's clemency is included, however the exact number of his pardons is incomplete as one of his final grants included a broad issuance to members of the Jan. 6th committee and police officers who testified before the committee, which makes it difficult to determine the exact number of recipients.

²² <https://www.justice.gov/pardon/clemency-recipients>

²³ Includes a first term president losing reelection and after a second term.

of 9,829 acts of clemency granted by presidents in the dataset. Individual dummy variables for each president in the dataset are included. Each president has had different philosophies on how to use their clemency power, as it is a unilateral power, and its use is solely at their discretion. Some, such as both Bush I and Bush II, issued very few commutations during their presidencies while others, such as Obama, issued over 1,000 as a policy initiative. By including a dummy variable for each president, I am able to capture these individual effects.

A second set of models utilized with the main dependent variable is monthly clemency denials. This again is divided between pardon denials, commutation denials, and total denials. The Department of Justice's data on clemency denials is only available monthly from George H.W. Bush and onward, thus this model has data ranging from 1989-2025. The same independent variables are included. There are 433 months of presidents in the dataset, with a total of 9,933 pardon denials, 37,758 commutations denials; combined that makes for 47,691 total clemency denials.

Table 1: Average Approval for Months When Issued Clemency

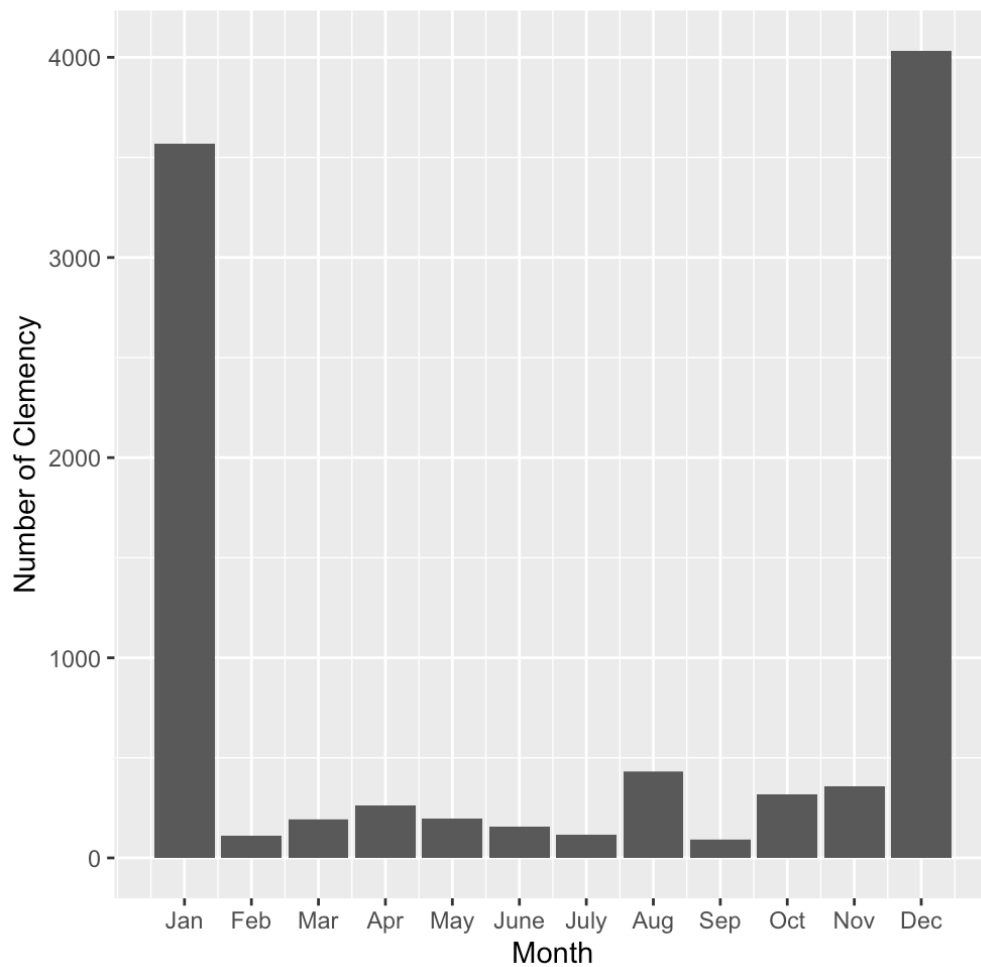
Clemency Type	Average Approval
Pardon	48.55%
Commutation	45.65%
Either	48.23%

Table 2: Presidential Clemency Across Presidencies

President	Pardons	Commutations	Total
Joe Biden	80	4,165	4,245
Donald Trump	144	94	238
Barack Obama	212	1,715	1,927
George W Bush	189	11	200
Bill Clinton	396	61	457
George HW Bush	74	3	77
Ronald Reagan	393	13	406
Jimmy Carter	534	29	563
Gerald Ford	382	22	404
Richard Nixon	863	60	923

In my analysis, both set of models utilize a fixed effects linear model to examine the effect of multiple variables on the dependent variable as it allows me to include multiple group fixed effects. These fixed effects are the dummy variables for each president. By including these fixed effects, I can control for unobserved variables that are unique to each president's term in office, such as their leadership style or public image. Additionally, a joint hypothesis test is also employed to examine the collective impact of presidential approval and post-election timing on the dependent variable and whether they are significantly different from zero.

Figure 1: Number of Total Clemency Granted per Month (1969-2025)



Results

Model results are displayed in Table 3, showing clemency grants spanning from Nixon through Biden, and Table 4, showing clemency denials spanning from George H.W. Bush to Biden. By looking at Table 3 we see the results of the complete model utilizing the full dataset, from Nixon to Biden, including Trump's first term only. These are divided into three models with different dependent variables: pardons, commutations, and total clemency. As for pardons alone, in Model 1, we see that there is not a significant relationship between presidential approval and pardons. In fact, this relationship is small but in a negative direction. We do see most presidents in this analysis have issued a lower number of pardons than the reference category, Richard Nixon, and all since Reagan are significant. However, the interaction between presidential approval and post-election is positive and significant, suggesting that the relationship between approval and pardons issued increases after an election as opposed to before.

In Model 2 with commutations, a lesser effect than a pardon but still available as part of the clemency toolbox, approval is also not significant factor for when presidents issue commutations. Several presidents have significant values here, compared to the reference category of Nixon. What is interesting here is the timing variables. First, we see that for the post-election timing variable, commutations are significant and positive, suggesting that presidents issue more commutations after elections than before. The other timing variable is negative and not significant, suggesting that the second term does not have a considerable effect on when commutations are issued. However, this model includes both one- and two-term presidents, and the one-term presidents might be skewing the results. And as for the interaction term, it is significant but negative, suggesting a decrease in commutations with an increase in approval.

Table 3: Fixed Effects Linear Models (1969-2025)

	Model 1 Monthly Pardons	Model 2 Monthly Commutations	Model 3 Monthly Total Clemency
Approval	-0.01 (0.10)	0.23 (0.43)	0.22 (0.45)
Post-Election	-34.14 (20.97)	391.27*** (90.87) (93.81)	357.13***
Second Term	-1.25 (2.49)	-1.86 (10.79)	-3.12 (11.14)
Divided Government	0.67 (2.98)	22.71* (12.93)	23.38* (13.35)
Gerald Ford	-8.59 (5.66)	-15.75 (24.53)	-24.34 (25.32)
Jimmy Carter	-6.86 (5.56)	8.27 (24.11)	1.41 (24.90)
Ronald Reagan	-14.76*** (4.02)	-4.91 (17.41)	-19.67 (17.98)
George HW Bush	-17.78*** (4.89)	-16.79 (21.20)	-34.57 (21.89)
Bill Clinton	-14.63*** (4.13)	1.39 (17.93)	-13.24 (18.51)
George W Bush	-15.21*** (4.65)	9.09 (20.15)	-6.11 (20.81)
Barack Obama	-16.48*** (4.07)	19.23 (17.67)	2.74 (18.24)
Donald Trump	-16.42*** (5.02)	1.37 (21.78)	-15.04 (22.29)
Joe Biden	-17.44*** (4.98)	83.72*** (21.59)	66.27*** (22.29)
Approval x Post-Election	1.35*** (0.44)	-4.59** (1.93)	-3.23 (1.99)
Constant	18.20*** (6.21)	-33.44 (26.92)	-15.23 (27.79)
Observations	674	674	674
R2	0.096	0.144	0.156
Adjusted R2	0.076	0.125	0.138
Residual Std. Error	25.041	108.508	112.018
df =	659		

Note: *p<0.1; **p<0.05; ***p<0.01

Table 4: Fixed Effects Linear Models (1989-2025)

	Model 1 Monthly Pardon Denials	Model 2 Monthly Commutation Denials	Model 3 Monthly Clemency Denials
Approval	-0.21 (0.70)	0.15 (2.30)	-0.05 (2.88)
Post-Election	177.87 (139.08)	399.29 (452.88)	577.16 (565.25)
Second Term	-1.82 (17.48)	37.90 (56.93)	36.07 (71.05)
Divided Government	31.58* (17.10)	79.66 (55.69)	111.24 (69.51)
Bill Clinton	20.00 (26.85)	12.88 (87.43)	32.89 (109.13)
George W Bush	26.86 (29.57)	130.04 (96.28)	156.90 (120.17)
Barack Obama	12.32 (27.55)	203.51** (89.70)	215.83* (111.96)
Donald Trump	-1.41 (32.02)	34.52 (104.28)	33.11 (130.15)
Joe Biden	68.34** (31.51)	246.20** (102.62)	314.54** (128.09)
Approval x Post-Election	-3.02 (3.00)	3.06 (9.77)	0.04 (12.19)
Constant	-7.69 (46.78)	-113.56 (152.35)	-121.26 (190.15)
Observations	433	433	433
R2	0.033	0.096	0.078
Adjusted R2	0.10	0.074	0.056
Residual Std. Error df = 422	139.919	455.590	568.623
Note:	*p<0.1; **p<0.05; ***p<0.01		

The third model contains total clemency grants, and the post-election period is positive and significant, supporting the results of the second model. The interaction between approval and the post-election timing is negative and not significant, which does not give us much we can infer.

The last interesting result from Table 3 is the Divided Government variable. The results are positive for all three models, with just a small effect for the pardon model, and in the 20s for commutations and total clemency. Those two models are significant using a one-tailed test, not a two-tailed test, showing that when the president's party is not in control of both chambers of Congress, they issue more clemency. This could be the fact that, during divided party government, the president's partisan agenda is unable to be advanced and thus they turn to their unilateral powers to still make a difference without having to involve Congress.

As for Table 4, the dependent variable changes to clemency denials to test Hypothesis 2 and whether there is a relationship not only in the people who are granted clemency by the president but also the people denied clemency by the president. In the models we see that approval has a mixed effect, but it is not statistically significant. The timing variables of post-election and second term are all positive, except one, yet were not significant either. As this is the denials dataset, George H.W. Bush is the excluded category.

When the interaction between approval and post-election is removed, we see a bit of difference in the direction and significance of a few key variables. These models shown in Table 5 also include the full dataset from Nixon to Biden. The biggest and most notable difference is the effect of post-election. As can see across all three models in Table 5, the post-election coefficient is positive and statistically significant, the opposite direction when the interaction is included. This suggests that on its own without the interaction, presidents issue more clemency after an election when they are lame ducks. Looking at the types of clemency individually, presidents issue more commutations than pardons in a post-election period; the total clemency number is larger than

either alone, showing that on average presidents issue 209 more grants of clemency during such a post-election period than before.

The other timing variable, grants during the second term, is negative across all three models. The other interesting finding from these models is from the main variable of interest: presidential approval. Without the interaction of approval and post-election, we see the effect approval has on its own. It is positive across all three dependent variables but not statistically significant. The other interesting result is that for divided government, it is positive for all three models and significant for commutations and clemency, suggesting presidents issue more during divided government, when their party does not hold control of both houses of Congress.

Table 5: Fixed Effects Linear Models (1969-2025)

	Model 1 Monthly Pardons	Model 2 Monthly Commutations	Model 3 Monthly Total Clemency
Approval	0.05 (0.10)	0.02 (0.43)	0.07 (0.44)
Post-Election	27.90*** (5.04)	181.39*** (21.78)	209.30*** (22.43)
Second Term	-0.53 (2.49)	-4.29 (10.78)	-4.83 (11.10)
Divided Government	0.42 (3.00)	23.55* (12.97)	23.97* (13.36)
Gerald Ford	-7.33 (5.68)	-20.00 (24.55)	-27.34 (25.29)
Jimmy Carter	-7.62 (5.59)	10.85 (24.18)	3.22 (24.90)
Ronald Reagan	-14.57*** (4.04)	-5.53 (17.47)	-20.11 (18.00)
George HW Bush	-18.70*** (4.91)	-13.68 (21.24)	-32.38 (21.87)
Bill Clinton	-14.40*** (4.16)	0.60 (17.93)	-13.79 (18.53)

George W Bush	-16.19*** (5.85)	12.42 (20.18)	-3.77 (20.78)
Barack Obama	-16.11*** (4.10)	17.96 (17.72)	1.85 (18.25)
Donald Trump	-16.01*** (5.05)	-0.00 (21.83)	-16.02 (22.49)
Joe Biden	-17.40*** (5.01)	83.58*** (21.67)	66.18*** (22.32)
Constant	15.00** (6.16)	-22.61 (26.62)	-7.60 (27.42)
Observations	674	674	674
R2	0.083	0.136	0.153
Adjusted R2	0.065	0.119	0.136
Residual Std. Error (df = 660)	25.198	108.890	112.157
=====			
Note:	*p<0.1; **p<0.05; ***p<0.01		

Lastly, in Table 6 I report the results of a joint hypothesis test between presidential approval and post-election period. Clearly there was an effect with the interaction between the two variables, enough to change the direction of the other variables when added into the analysis. In order to test these two variables at the same time and further investigate the interaction effects, this joint hypothesis test was used. All three dependent variables were used to field these tests to further help us understand the relationship between clemency, presidential approval, and election timing.

Table 6: Joint Hypothesis Tests: Approval and Post-Election (1969-2025)

	Model 1 Pardons	Model 2 Commutations	Model 3 Total Clemency
Res. Degrees of Freedom	661	661	661
Degrees of Freedom	2	2	2
Chi-Square	2.69	18.70	14.60
P-value	0.2592	0.00008694***	0.0006731***
=====			
Note:	*p<0.1; **p<0.05; ***p<0.01		

As we see with the first model of Table 6 using only pardons, we fail to reject the null hypothesis and do not have enough evidence to support that approval and post-election timing has a significant effect on the president issuing pardons. Yet, the other two models do have significant support. We see in model 2 for commutations and model 3 for total clemency a significant effect, leading us to believe that presidential approval and a post-election timing have a substantial effect on presidents issuing commutations and clemency as a whole. This gives us more insight into the timing of pardons and how it effects presidential usage of this unilateral power.

Discussion

By looking at the results, we see the outcomes from my hypotheses and their bearing on our understanding of presidential unilateral power and the effect of public opinion and electoral accountability. For the first hypothesis, I did not find statistical evidence to support it. There was only one singular model that showed any effect, which was with commutations in the stand-alone models without the interactions, and it was a substantively small effect. Presidential approval, as far as this analysis is concerned, does not seem to have a significant effect on when presidents use the clemency power. This suggests that presidents are not basing their clemency decisions on their public standing or are not overly concerned with squandering their political capital by issuing a pardon or commutation. The opening anecdote from Gerald Ford does not seem to have offered much of a lesson to his predecessors. I would also guess that the majority of voters are not aware of most of a president's clemency actions. Most are announced in batches without much fanfare; only the most controversial actions receive attention from the public, Congress, and other political actors.

Table 7: Average Clemency per Month (1969-2025)

Month	Avg. Pardons	Avg. Commutations	Avg. Total Clemency
January	7.06	54.50	61.56
February	1.80	0.16	1.96
March	1.89	1.53	3.42
April	2.42	2.26	4.69

May	2.37	1.12	3.50
June	1.80	0.94	2.75
July	101	1.05	2.07
August	1.48	6.19	7.67
September	1.35	0.25	1.60
October	1.91	3.76	5.67
November	3.48	2.87	6.35
December	38.16	33.85	72.01

The second hypothesis regarding clemency denials is also not significant. The coefficients are positive yet small, suggesting a possible slight effect; however, these were not statistically significant and cannot lead me to rule out that the effect is different from zero. This shows us that denials, such as clemency grants, are not affected by a president's public standing. This is not all that surprising as clemency denials are not publicly announced or well known.

Table 8: Average Clemency Granted Pre- and Post-Election (1969-2025)

Timing	Average Clemency
Pre-Election	6.14
Post-Election	217.0

Table 9: Average Clemency per Presidential Term (All Presidents 1969-2025)

Term	Average Clemency
First Term	15.2
Second Term	13.2

Table 10: Average Clemency per Presidential Term (Two-term Presidents 1969-2025)

Term	Average Clemency
First Term	7.26
Second Term	14.6

As the results indicate, the results suggest that timing is an important and significant factor when looking at clemency. Both of the timing hypotheses, 3 and 4, were confirmed in the results, suggesting that timing, rather than public approval, is what really drives presidential clemency behavior.

As displayed in Table 7, we see that clemency is more likely to occur in the months of December and January, after elections. Also when looking at Table 8, when looking at clemency grants pre- and post-election, we see that presidents issue considerably more clemency on average post-election than they do pre-election. By looking at clemency issued on average during the first and second term, in Table 9, we see that there is not much difference in the average issued between the terms. However, this includes all presidents in the dataset, from Nixon to Biden. By including Biden, who only served one term, and issued more clemency than his predecessors, he greatly increases the average for the first term. When looking at two-term presidents only, as shown in Table 10, we see that those presidents issued more clemency on average in their second term than their first. The average for the second term is double for the first term. This suggests that presidents seem to care less about political capital and their approval of the moment and are more concerned with electoral effects and legacy building. The amount of clemency saved for the second term and after an election shows that presidents are worried about issuing a clemency grant before an election that could upset the public enough to ruin their electoral chances. By issuing clemency after an election during a lame-duck period, presidents also avoid dragging down their party and potential co-partisan successor, if leaving after two terms. This helps to confirm Hypothesis 4, as well as the results of the statistical models, that presidents do issue more clemency in their second term. This leads one to conclude that presidents are concerned about wielding their power too much before going up for reelection and alienating critical voters with pardons or commutations. The burden of electoral accountability is no longer present in the second term, due to the 22nd Amendment, and

presidents feel unshackled to use this unilateral power. This pattern of issuing more pardons and commutations in the lame-duck period has caught the eye of reformers, suggesting that this power should be curtailed in the waning days of a president's term (Sisk 2002).

The presidential approval hypotheses did not turn out as a statistically significant explainer of presidential clemency. Presidential approval is an indicator of a president's political capital and a measure of the public support behind them and their political agenda. Yet, in this analysis, presidential approval is not a mover of clemency. The legacy-building and electoral accountability story in clemency is the driver here. As presidents are only permitted two terms in office, the ambition of gaining a second term could be the explanation here; presidents do not want to rock the boat before their election. They seem to save most of their clemency actions for the lame-duck period. This analysis is the beginning of helping us understand when and how presidents use their unilateral powers, and I plan to continue this line of work in the future.

By looking at the data, several pardons and commutations were issued after an election, many of them in December and January right before the president leaves office. There is more to dig into here and additional analysis to do to investigate further the timing of presidential clemency in regard to elections. To further this research, one route could be to take a seasonal analysis approach to post-election clemency and see what it means for presidential accountability. It would be helpful to break it down into how long after the election and before they leave office by the month issued: November, December, and January. This will help me better explain if presidents wait until the last moment to continue using one of their unilateral powers before leaving office.

The results show that while public opinion does not move clemency in the specific, it does in the aggregate. By viewing with a big-picture lens, we see that presidents do indeed care what the electorate thinks and how that affects their clemency decisions. By issuing the majority of their clemency in the second term and after an election, presidents are showing us how they are worried

about how the public might react to their pardons and commutations. Using this unilateral power is unchecked and thus, in theory, presidents should be unencumbered for when they use it. We saw this when Donald Trump came into office for a second term and immediately issued pardons to the January 6th defendants, not having to face voters again after winning reelection. Yet by using it mostly after facing voters, we can glean that presidents are concerned about voters' reaction to their use of power. These concerns about electoral chances and legacy building show the power of public opinion on unilateral power, as shown by Christenson and Kriner (2020) as well as Reeves and Rogowski (2022).

Presidential approval is an important metric of the president's public standing. It measures the amount of support the American people have behind the president and the leadership of our country. By signaling to the president the level of support, individuals in that office can gauge the amount of public goodwill they have. This political capital can be an important factor in presidential decisions, whether there is enough stored up to continue with the current plans or create new ones. This approval does appear to be a motivator for presidents using their clemency pen. Pardons and commutations do seem to be driven by where the president stands with the public, as it directs *when* they feel most comfortable using such a unilateral power. Despite all the unilateral powers presidents have, including the virtually unchecked clemency power, there are still natural forces such as elections that hold them at bay. If we did not have the two-term limit, this pattern might look different; with such a limit presidents know in a second term they are free from electoral judgment and wield their clemency power more freely. This finding helps us better understand the motivations and forces that drive unilateral actions and how presidents ultimately exercise their powers.

CHAPTER 2

IS THE PUBLIC AN EFFECTIVE CHECK ON PRESIDENTIAL USE AND “ABUSE” OF UNILATERAL POWER?

Introduction

President Barack Obama was reelected to a second term in 2012 over Mitt Romney and found himself up against a Republican-held Congress. After trying in vain to work with congressional Republicans on policies such as immigration and gun control, Obama set out to use his executive authority to accomplish policy goals. He particularly favored executive orders, which allowed him to circumvent a gridlocked legislative branch. As a presidential candidate, Obama was wary of executive power, yet used it frequently in his second term to achieve policy success²⁴.

Republicans in Congress reacted, not surprisingly given the increased partisanship of the recent decade, with anger and uproar. Kentucky Senator Rand Paul said the president had a “king complex” and “we’re going to make sure it doesn’t happen.”²⁵ He went so far as to introduce legislation that would nullify executive orders deemed to be legislative in nature. Then the 2016 presidential election gave the presidency back to a Republican with the election of Donald Trump, who proceeded to issue a flurry of executive orders once he came into office. Senator Paul defended Trump’s use of executive orders by stating “We’re creating something that is freedom. He’s not

²⁴ Binyamin Appelbaum & Michael D. Shear, “Once Skeptical of Executive Power, Obama Has Come to Embrace It,” *The New York Times*, August 13, 2016, <https://www.nytimes.com/2016/08/14/us/politics/obama-era-legacy-regulation.html>

²⁵ Katie Glueck, “Rand Paul: Nullify ‘king’ Obama,” *Politico*, January 17, 2013, <https://www.politico.com/story/2013/01/rand-paul-on-gun-control-pledges-to-nullify-obama-orders-086332>

creating a new government program. We've read the original law and we believe what the president did today is basically an interpretation of the original law, and doesn't create new territory."²⁶

The shift in perspective on the use of executive orders by the president is stark. Obama campaigned for the presidency wary of executive power after George W. Bush took the country to war in Iraq and Afghanistan, yet used it to get around an obstructionist Congress. Republicans spent Obama's second term complaining about his many executive orders but remained quiet or even supportive of Trump's use of them. This trend seems to have continued with each successive shift in the party who holds the presidency and leads to the question: if their elected representatives only seem to care about which party is wielding presidential powers, do citizens feel the same? Do partisans care about which unilateral powers presidents use? Or do they only care about who is wielding them and what policy goals they achieve? In this context, can partisans push back on potential abuses of unilateral power by their in-party president? With the increase of partisanship and the rise of affective polarization, citizens seem to view presidential unilateral power exclusively through the lens of partisanship. Is party the defining characteristic in the relationship between unilateral powers of the presidency and voters' approval of their use? This paper seeks to help us better understand this relationship.

Partisanship and Polarization

This phenomenon, known as affective polarization, is defined as viewing opposing partisans negatively and copartisans positively (A. Campbell et al. 1960; Green, Palmquist, and Schickler 2004). Other scholars define it as when "partisans dislike the opposing party and its leaders" (Abramowitz and Webster 2016) and "hostility between rival political partisans" (Huddy and Yair 2021). This type of division sees members of the opposite party as selfish, untrustworthy, and close-

²⁶ Julia Manchester, "Rand Paul Defends Trump's Use of Executive Order: He's Not Creating New Law," *The Hill*, October 12, 2017, <https://thehill.com/homenews/senate/355220-rand-paul-defends-trumps-use-of-executive-order-hes-reinterpreting-original/>

minded and has led to an unwillingness to socialize across party lines (Iyengar et al. 2019) and is a powerful force in politics that heightens the power of partisan cues (Druckman et al. 2021). This division has consequences for democratic values: as a cue-taking signal for partisans, it leads them to support undermining democratic norms (Kingzette et al. 2021). American voters also do not prioritize democratic principles in their electoral choices, when fueled by polarization (Graham and Svobik 2020).

Scholars have found that hostile feelings for the opposing party are ingrained in voters' minds. Polarization based on party is just as strong as polarization based on race (Iyengar and Westwood 2015). Republicans and Democrats have been found to dislike and even loathe each other (Iyengar, Sood, and Lelkes 2012) and this trend has increased in recent years (Finkel et al. 2020). Citizens are more suspicious of the motivations of outgroup politicians than their copartisans (Munro, Weih, and Tsai 2010) and as misperceptions of the opposite party increases (M. S. Levendusky and Malhotra 2016). This type of polarization is so deep that it occurs across all levels of political knowledge (Lelkes 2018). Motivating reasoning plays a part in this process by encouraging partisans to blame the opposing party more than their own. Affective polarization is strongly associated with elite polarization (Banda and Cluverius 2018). Affect drives partisan behavior (Huddy, Mason, and Aarøe 2015) and increasing ideological extremity and constraint are both associated with strong partisan affect (Boucher 2017).

This has escalated as polarization in the United States has increased in recent decades. Political parties have become voters' identities and has turned into an ingroup-versus-outgroup situation (Mason 2018). Political parties have formed along many cultural lines because group identities are stable and significant (Lipset and Rokkan 1967). For many, it has become a zero-sum game where the goal is to win at all costs (Drutman 2020). The more salient the group membership is central to the personal identity, the stronger intergroup divisions become (Gaertner et al. 1993).

Part of that is due to polarization where the electorate itself has become more polarized: Democrats have become more liberal and Republicans have become conservative (M. S. Levendusky 2009). Negative views of the out-party and its supporters have risen sharply since the 1980s (Haidt and Hetherington 2012; Iyengar, Sood, and Lelkes 2012) and hostility towards out-party members is higher than it was 40 years ago (Lelkes 2018). Though polarization has increased in many countries, it is particularly acute in the United States; one study of 12 high-income countries from the past four decades found the largest increase in polarization occurred in the United States (Boxell, Gentzkow, and Shapiro 2024).

Partisan identity has become salient and the polarization that has increased as a result occurs for two main reasons. First, identity is formed at a young age by political socialization (Alford, Funk, and Hibbing 2005; Hatemi et al. 2009) and is rarely changed as people age. It is acquired from the influence of parents to their children (Greenstein 1965). Second, the frequent occurrence of political campaigns, every two years in the United States and lasting for several months or years, keeps politics and political identities front and center, as voters feel as if there is a permanent campaign (Lee 2016). Voters are constantly receiving partisan cues from party elites and influencing how they feel about the other party.

This has been in part due to norms being politicized and creates biases that motivate voters to restrict the other party's rights (Kingzette et al. 2021). Scholars have also attributed this shift to the absence of norms governing the expression of negative sentiment and that increased partisan affect provides an incentive for elites to engage in confrontation rather than cooperation (Iyengar and Westwood 2015). Others have found that exposure from political campaigns has led to biased views of political opponents (Iyengar, Sood, and Lelkes 2012) and rhetoric from elites helps shift the rank and file, who listen to them (Cottrell, Herron, and Westwood 2018). Americans have sorted

over time to the extent that their partisan and ideological identities better match one another (M. S. Levendusky 2009).

The rise of partisan news and social media, which have increased in recent years (Jurkowitz, Mitchell, and Walker 2020), is often blamed as the reason for our current polarized environment (Lelkes, Sood, and Iyengar 2017). Social media and their algorithms isolate and polarize people (Bakshy, Messing, and Adamic 2015) while political commentary has become increasingly polarizing and uses fear mongering (Berry and Sobieraj 2014). Social media creates echo chambers that reinforces viewpoints and limits exposure to diverse opinions (Cinelli et al. 2021), while those who do see opposing views may become more polarized (Bail et al. 2018). Even traditional outlets such as newspapers help reinforce the partisan echo chambers; traditionally Democratic-leaning newspapers tend to cover more of the political scandals of Republican politicians than Democratic ones and vice versa for Republican-leaning newspapers (Puglisi and Snyder 2011). Television advertisements, especially during election campaigns, have become negative and increase political affect (Sood and Iyengar 2016). Televised incivility has an effect on political trust; negative emotions incited by uncivil rhetoric on television contribute to increased polarization (Mutz and Reeves 2005).

This phenomenon of polarization has increased in recent years in American institutions and elections. We see that partisans approve more of the Supreme Court when their co-partisan is president and less when their opposite partisan is president, fueled by the policy possibilities their partisan's appointments to the Court could produce (Bartels and Kramon 2022). Many voters in the 2016 presidential election used their vote as a way to vote against the other party's nominee, rather than vote enthusiastically for their party's nominee (Bankert 2021). In a study of Independents during the 2020 presidential election, it was found that negative partisanship predicted turnout, political engagement, and strong emotional responses to the election outcome. Those with a strong disdain for one of the two major parties were more likely to turn out to vote (Bankert 2022).

Partisans now see elections as group competitions to win and view their membership in a party as supporting a sports team. Their behavior is similar to those supporters of sports teams in that they work to preserve their teams' advantage rather than democratic good (Miller and Conover 2015). Indeed, partisanship in the 21st Century has become more ideological and issue-based on conservative-liberal lines than it was in the previous 30 years (Bafumi and Shapiro 2009). Other experimental work confirms this, finding that when there is increased ideological differences between political figures it produces more polarized affective evaluations by voters (Rogowski and Sutherland 2016; Webster and Abramowitz 2017).

This increased level of polarization and partisanship can be beneficial to a democratic society, by increasing levels of participation and giving voters perceptions of electoral choice (Wagner 2021). Scholars have also pointed out the damaging effects increased polarization has on society. It increases centralization of power (Lee 2015), congressional gridlock (Jones 2001), and democratic backsliding (McCoy, Rahman, and Somer 2018; Orhan 2022). Another effect is making citizens feel less satisfied (Wagner 2021) and unwilling to interact with political adversaries (Frimer, Skitka, and Motyl 2017). Affective polarization leads to inter-partisan hostility (Lelkes and Westwood 2017) and a willingness by partisans to dehumanize members of the out-party (Martherus et al. 2021). The emotions conjured up by this phenomenon can drive protest behavior (Bettarelli, Close, and Van Haute 2022) and declines in trust of democratic institutions (Dryzek et al. 2019).

Partisanship and polarization have seeped into all aspects of American political life, as evidenced by the research referenced here. From where citizens choose to live to who they date and marry to how they view the opposing party and its members; this phenomenon can be everywhere. Not only does it affect social life, but it also does political life. As scholars have researched and pointed out, polarization does have an effect on the quality of our democracy (McCoy, Rahman, and Somer 2018). The question then becomes: how do institutions and a political system react to this

situation? Do the institutions have the ability to weather this polarization and the partisanship it brings with it? The presidency as an American institution has been around for more than 200 years and seen many political parties come and go; it even began without political parties but quickly saw them pop up. With specified executive power in place since the founding of our country, citizens have long had the opportunity to witness the president using unilateral power. But how will they view that power through the increasingly relevant lens of partisanship?

Unilateral Power and Public Opinion

Presidential unilateral power is granted via the Constitution, allowing the president to amass power and use it to further their agenda. The vagueness of the Constitution regarding executive authority gives presidents leeway to take unilateral actions and expand their power. One example is the use of executive orders and presidents have used them over time to expand their policy influence (Moe and Howell 1999). Also helpful to the president is the institution of the office surrounding and supporting them to achieve their goals. As Howell (2003) examines, as the presidency has become institutionalized over time it has increased the capacity of the office for direct action. This institutionalization peaked in the 1970s and gives the president a fair amount of autonomy in the use of their powers (Ragsdale and Theis 1997). Presidents use their unilateral power strategically to get around gridlock and advance their agenda (Deering and Maltzman 1999; Mayer and Price 2002)

The public is certainly aware of the president's actions as the head of state and government. Despite today's 24-hour news environment and the proliferation of news and entertainment sources vying for people's attention, presidents can still command the spotlight. These outlets have increased the public's awareness of the president's policies and actions. In fact, one analysis of news coverage found that the majority of outlets regard presidential news as significantly more newsworthy than non-presidential news (Baum and Groeling 2008), which is no surprise as the president is a

particularly newsworthy figure in American politics (Graber 1997; Robinson and Appel 1979; Tidmarch and Pitney, 1985).

This public awareness is important and helps presidents achieve their goals. Presidential approval is important as a marker of their political capital and they must wield it effectively to move policy in their preferred direction (Edwards 2003). Presidents specifically go to the public to garner support for their agendas and use it to move members of Congress (Kernell 2007), even using their travel to target specific areas and local coverage to their advantage (Cohen 2010). Although some research has shown that presidential approval and presidential electoral success is mostly affected by the state of the economy (Hibbs 2000), unilateral presidential actions can move opinion and affect their electoral chances. One example noted in the preceding chapter is the pardon of former president Richard Nixon issued by Gerald Ford, which immediately dropped Ford's approval rating by 21 points (Daniel 1974) and led many scholars to believe it cost him reelection in 1976 to Jimmy Carter (Crouch 2009).

Scholars have found that the public does not have particularly strong views on the president's unilateral powers themselves, rather the politics of the moment. In a series of surveys, Reeves and Rogowski (2016) found low levels of support for unilateral powers but it is based on presidential approval and beliefs on the rule of law. They found that voters differentiate between the president and the presidency, even during the Obama presidency when presidential power was highly politicized. Voters operate in a low-information system and use heuristics to make decisions about candidates and policies (Popkin 1994). Many Americans cannot even name their elected officials, let alone give specifics on their policies (Delli Carpini and Keeter 1996).

Indeed, scholars have found that citizens' views of presidential power are based less on the actual underlying power and more on the citizen's individual view of the current president.²⁷ Voters do use their feelings about the current president to determine their opinion on other things, such as deciding to vote for the president's co-partisans in Congress (J. E. Campbell 1997; Kernell 1977; Tufte 1975), supporting the president's policy initiatives (Page and Shapiro 1985), and whether to approve of the president's policy achievements (Kriner and Reeves 2014). Another study used a nationally representative sample and found that those who approved more of the president were significantly more supportive of presidential power (Reeves and Rogowski 2015). A related study during the George W. Bush presidency found that responses were shaped by partisanship and ideology rather than institutional loyalties (Aberbach, Peterson, and Quirk 2007). Given this pattern, it logically follows that, as scholars wrote so succinctly, "citizens who approve of the president may be more likely to support the president's use of unilateral tools" (Reeves and Rogowski 2016).

For years, scholars have downplayed the effect and power of public opinion on presidential actions and their unilateral powers (Howell 2003), but more recent scholarship has showed the central role public opinion on unilateral action and how it constrains presidents from using those powers. Christenson and Kriner (2020) lay out why public opinion is important in how presidents use their unilateral power. With the public's increasing support, the president feels more emboldened to use their unilateral powers to pursue their agenda. Public opinion is truly the only thing that checks presidential unilateral power. In another, Reeves and Rogowski (2022) highlight how the public is skeptical of presidential power and their use of it; the public does not give the president a "blank check" to use their unilateral powers. They do acknowledge that partisanship does play a significant role in shaping the public's opinion of presidential action. Citizens do often

²⁷ For an opposing viewpoint on citizens having distinct attitudes about the powers themselves separate from the actors who occupy the institution, see (Gibson and Caldeira 2009; Hibbing and Theiss-Morse 1996).

view unilateral power through the lens of partisanship and use that to form an opinion on presidential action.

Partisanship has become a more important and significant lens through which citizens view the president and their actions. Indeed, in the polarized environment we find ourselves, citizen evaluation of the president is indeed filtered through the lens of partisanship and economic factors matter less than they previously did (Donovan et al. 2020). One survey study before and after the 2016 election shows how partisan control of the presidency affects evaluations of the state of the economy. It found that partisan change in control of the White House after the election led to more positive evaluations of the economy by Republicans and more negative evaluations from Democrats (Ang et al. 2022).

Why does this occur? Why is partisanship the central lens through which citizens evaluate the current president? Polarization has increased in recent years along ideological lines. As noted in the previous section, politics and political identity have become so intertwined in peoples' lives that it has become their identity. This is due to people aligning themselves with parties based on characteristics of their identity such as race and religion (Mason 2018). Not only has it become an identity, but politics and elections have come to be viewed by many citizens as a zero-sum game where your "team" must win and the other side must lose (Drutman 2020).

Media consumption and self-sorting have also contributed to the increase in polarization. One study found that partisans have become more isolated from each other as people are moving into co-partisan areas (Gimpel and Hui 2015). Even in their media choices, people self-select into a favorable media environment, which leads to partisan selective exposure and a decrease in hearing contrary opinions. The reverse is also true: polarization leads to partisan selective exposure (Stroud 2010). This reinforces the polarized identity as partisan media outlets present slanted coverage that leads viewers to view the other party more negatively, to trust them less, and to be less supportive of

bipartisanship (M. Levendusky 2013). Polarization and affective polarization increases because, in order to fit in with the group, people adopt the attitudes of prototypical in-group members, which leads to out-group animosity (Hogg 2001).

Thus, when probing citizen evaluation of presidential unilateral power, I would expect partisanship to have a large effect. Rather than have feelings about the specific unilateral tool a president used or did not use, citizens will care more about how the power is used or not used. The important aspect here is not necessarily *what* power or *how* it is used, but rather *who* is the one wielding the power. As evidenced in the opening anecdote, partisans seem to care more about which party is holding the presidency and how they will use the powers of the office to further or hinder their preferred policy agenda. As one author pointed out, “for more voters than ever, it’s the party, not the person” when thinking about the presidency.²⁸

Theoretical Expectations

When surveying on three unilateral powers in the president’s toolkit, I expect people to act as partisans and for that to be top of mind when evaluating presidential actions. People will care more about the party of the president using the power than checking the president on abuses of power. This is due to the importance of the policy agenda and the partisan identity will want that agenda enacted, at the expense of potentially abusive actions. Another expectation is that partisans will be more willing to excuse abuse from an in-party president than an out-party president. Partisanship has created a zero-sum mindset and people have sorted themselves into partisan “teams.” These groupings encourage citizens to overlook abuse from their in-party president. It is, in reverse, easier also to point about abuse of power from an out-party president.

²⁸ Charlie Cook, “For More Voters than Ever, It’s the Party, Not the Person,” The Cook Political Report, September 18, 2020, <https://www.cookpolitical.com/analysis/national/national-politics/more-voters-ever-its-party-not-person>

Given these expectations, these are my hypotheses:

H1: Partisans will approve more of their in-party president using executive orders/signing statement/pardon than the out-party president

H0: There is no difference of approval for in-party and out-party presidents

Data and Methods

To test public reaction to presidential unilateral power, a national survey was fielded²⁹ via Bovitz that had approximately 1,550 responses of Americans over the age of 18, matched to U.S. Census categories for race, gender, education, and region. Three unilateral powers were surveyed: pardons, executive orders, and signing statements. Each of the three questions had a control group, which asked about a generic president without mentioning their political party, and treatment groups for Joe Biden and Donald Trump. Each respondent had a five-point scale to respond ranging from strongly approve to strongly disapprove. Question wording for the vignettes read as follows:

Question 1: Executive Orders

Control

An executive order is a directive issued by the president to control the operations of federal government agencies. If a president, regardless of who it is, issued an executive order about artificial intelligence, directing government agencies how to proceed and using executive power to regulate this technology, would you approve of a president using the power in this manner?

Treatments

An executive order is a directive issued by the president to control the operations of federal government agencies. President Donald Trump/President Joe Biden issued an executive order about artificial intelligence, directing government agencies how to proceed and using executive power to regulate this technology. Do you approve of him using the power in this manner?

Question 2: Signing Statements

Control

When signing a bill to become a law, presidents often include a signing statement. A signing statement represents the president's official comment on a bill, sometimes even contradicting something in the bill the president believes defies the Constitution. If a president, regardless of who it is, issued a signing statement contradicting the law just signed would you approve of them using the power in this manner?

Treatments

When signing a bill to become a law, presidents often include a signing statement. A signing statement represents the president's official comment on a bill, sometimes even contradicting something in the bill the president believes defies the

²⁹ Survey fielded December 11-21, 2023

Constitution. President Donald Trump/President Joe Biden issued a signing statement that raises constitutional concerns about the bill just signed. Do you approve of him using the power in this manner?

Question 3: Pardons

Control

The Constitution allows the president to grant pardons, which forgives federal crimes and wipes the crime clean from a person's record. If a president, regardless of who it is, issued a pardon to someone convicted of murder would you approve of them using the power in this manner?

Treatments

The Constitution allows the president to grant pardons, which forgives federal crimes and wipes the crime clean from a person's record. While president, Donald Trump/President Biden issued a pardon to someone convicted of murder. Do you approve of him using the power in this manner?

Analysis of the survey results seems to confirm the theorized direction of the responses. In Figure 2 we see the results of voters' responses to presidents using the executive order by partisanship of respondents. Democrats approve more of Biden using the power than Trump, while Republicans approve more of Trump using the power than Biden. In the control groups there was not much variation among the partisan responses.

In Figure 3, we see the results for the next question, which asked about signing statements. Here we see similar results to the first one. Democrats are approving of Biden using the power more than Trump, while Republicans are the opposite, as predicted. The control groups, again, do not exhibit much variation.

Figure 2: Executive Order Question Results by Partisanship and Treatment

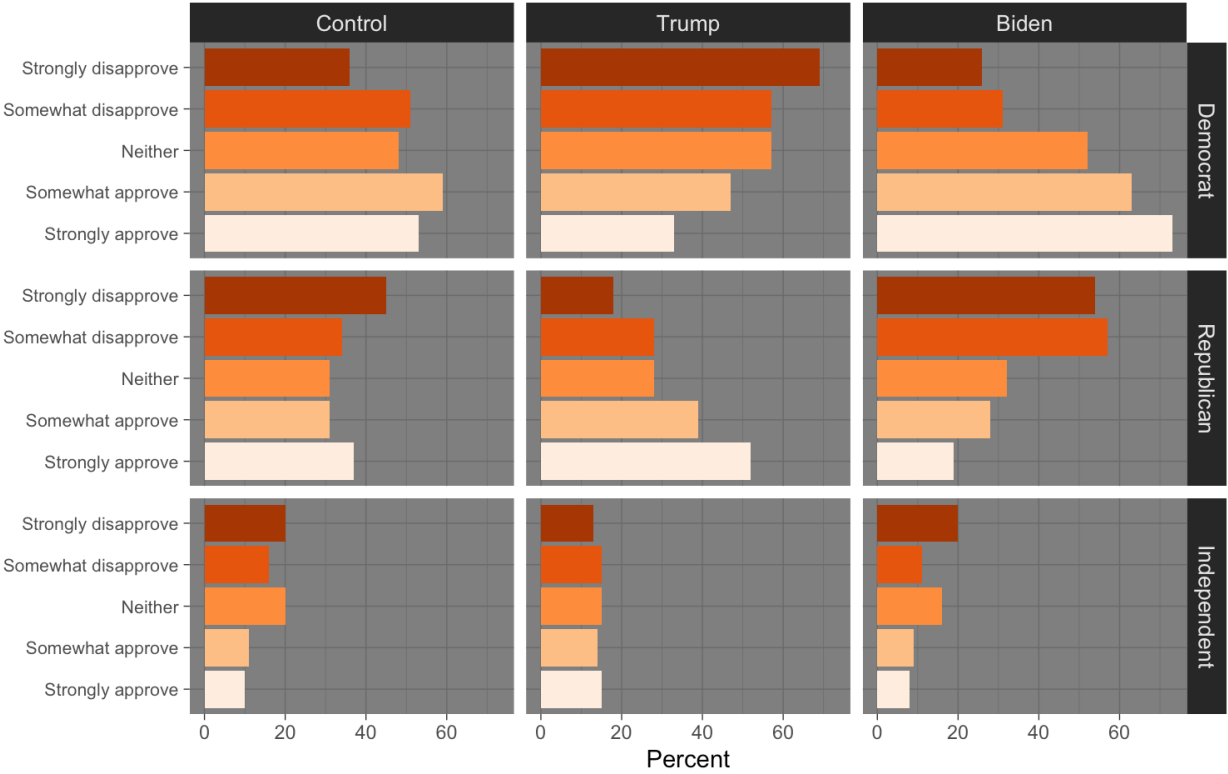
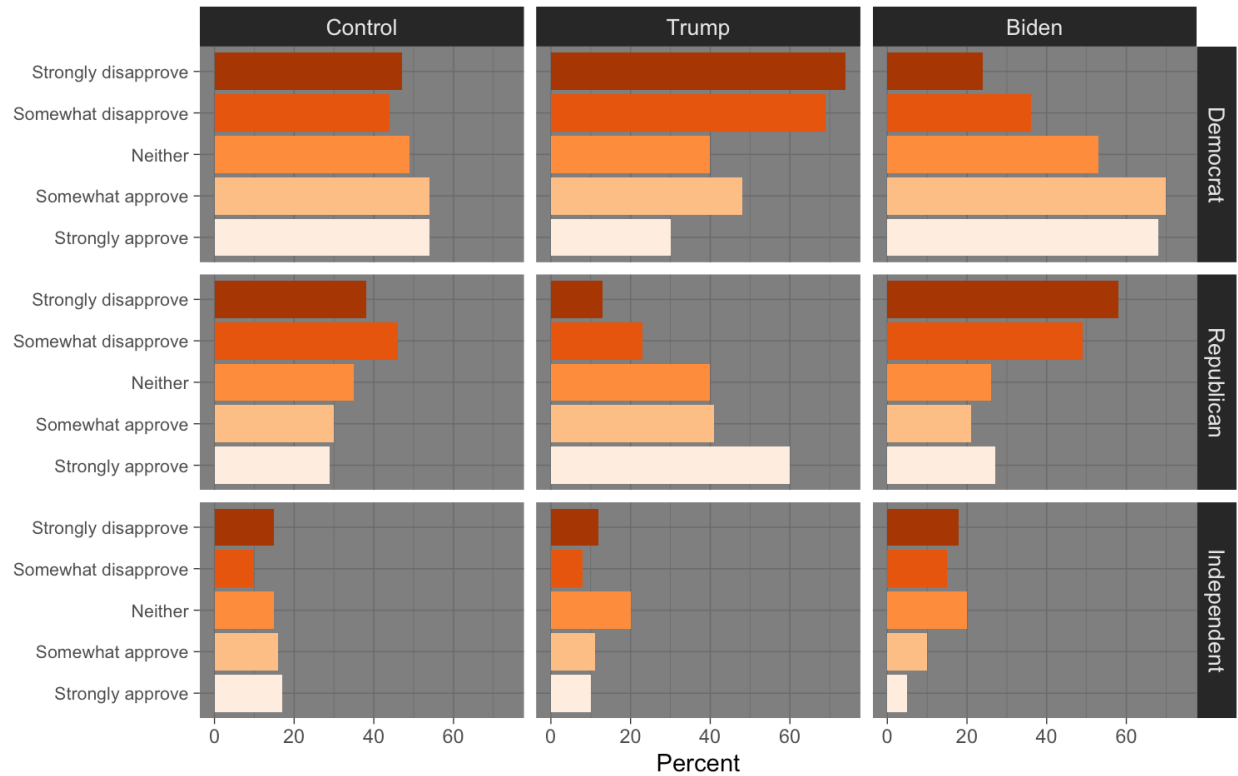
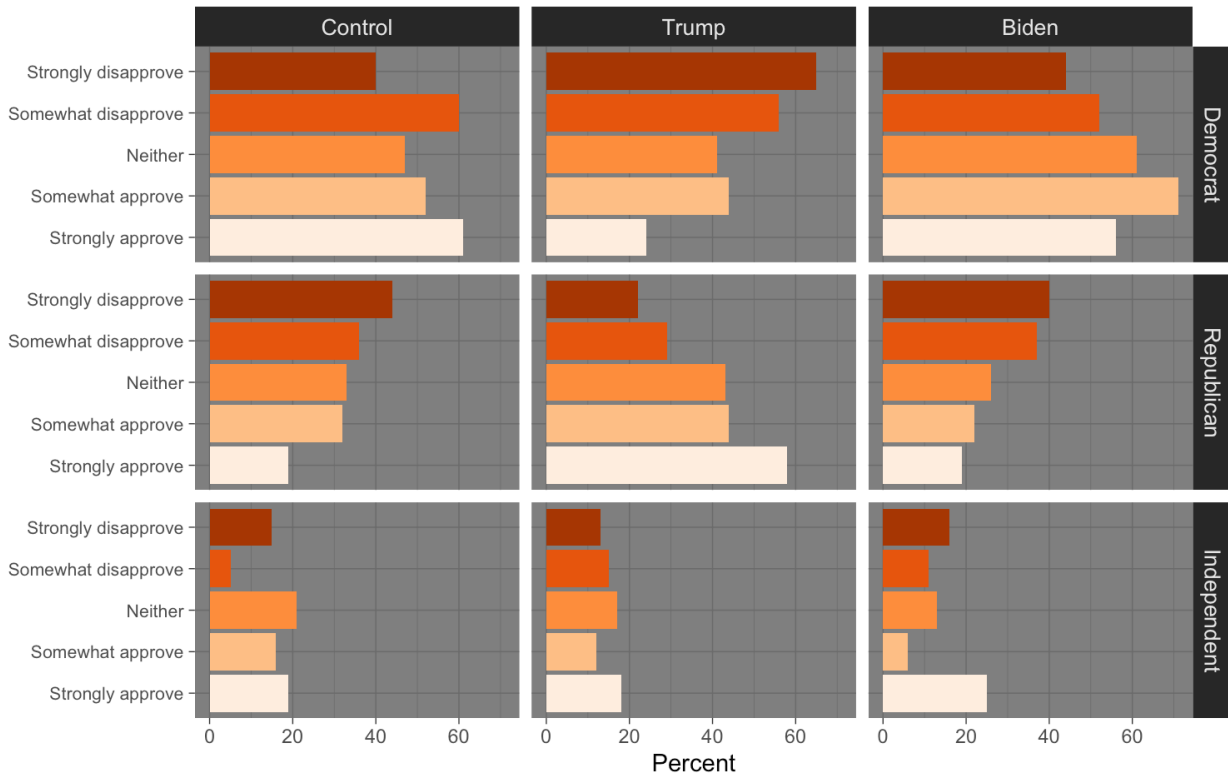


Figure 3: Signing Statement Question Results by Partisanship and Treatment



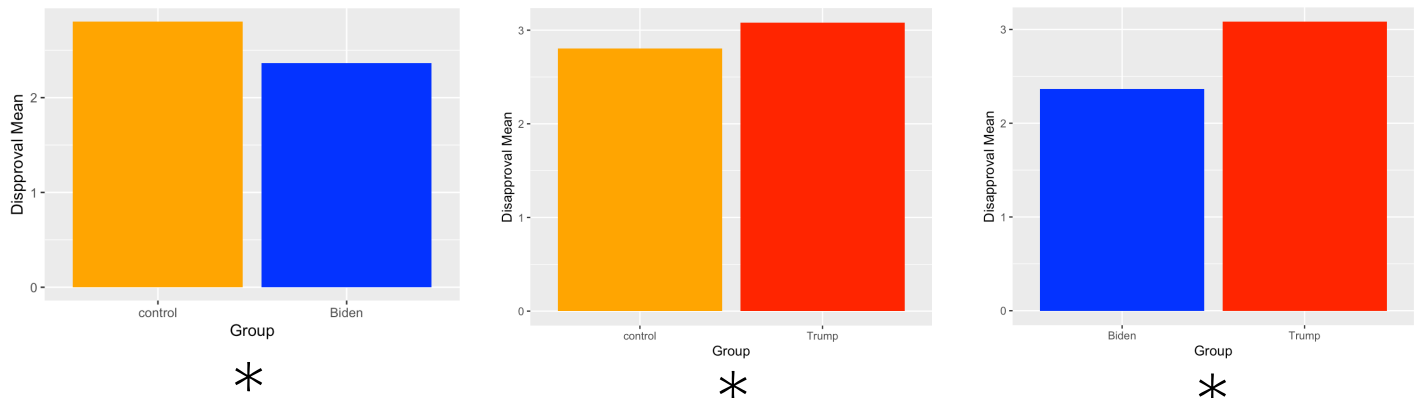
We see similar results for the third question, on pardons. In Figure 4, we see the results for pardons and, once again, see similar patterns. The respondents followed the partisan lines and approved of their in-party president using the power and disapproved more of the out-party president using the unilateral power.

Figure 4: Pardon Question Results by Partisanship and Treatment



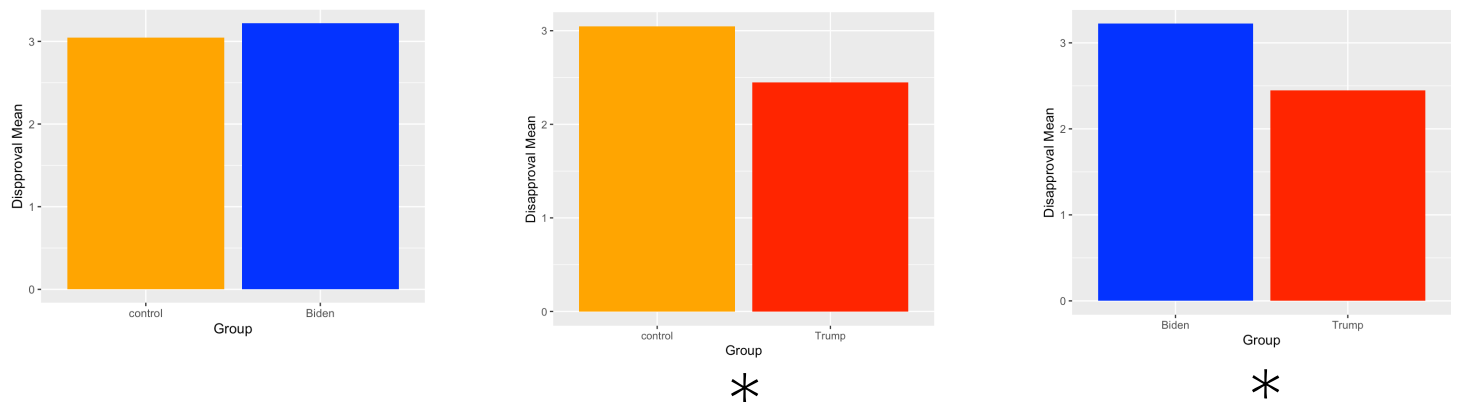
As the figures show initial adherence to the theoretical expectations, difference in means t-tests are utilized to test the hypotheses. Figure 5 shows the difference in means tests for Democrats on the executive order question. All three groupings were statistically significant, confirming the hypothesis that respondents had a difference in viewing presidential power between the in-party and out-party presidents.

Figure 5: Difference in Means for Democrats on Executive Order Question



In Figure 6 we see the test on the same question for Republicans. Here, two of the three tests were significant. The only one that was not was the test between the control and Biden groups, which given that Biden was the sitting president at the time of the survey, respondents may have associated the generic president with Biden.

Figure 6: Difference in Means for Republicans on Executive Order Question



In Figure 7 we see the test for Democrats on the signing statement question. Once again, all are statistically significant, further uploading the hypotheses. Figure 8 shows the results for Republicans and, once again, two of the three are significant.

Figure 7: Difference in Means for Democrats on Signing Statement Question

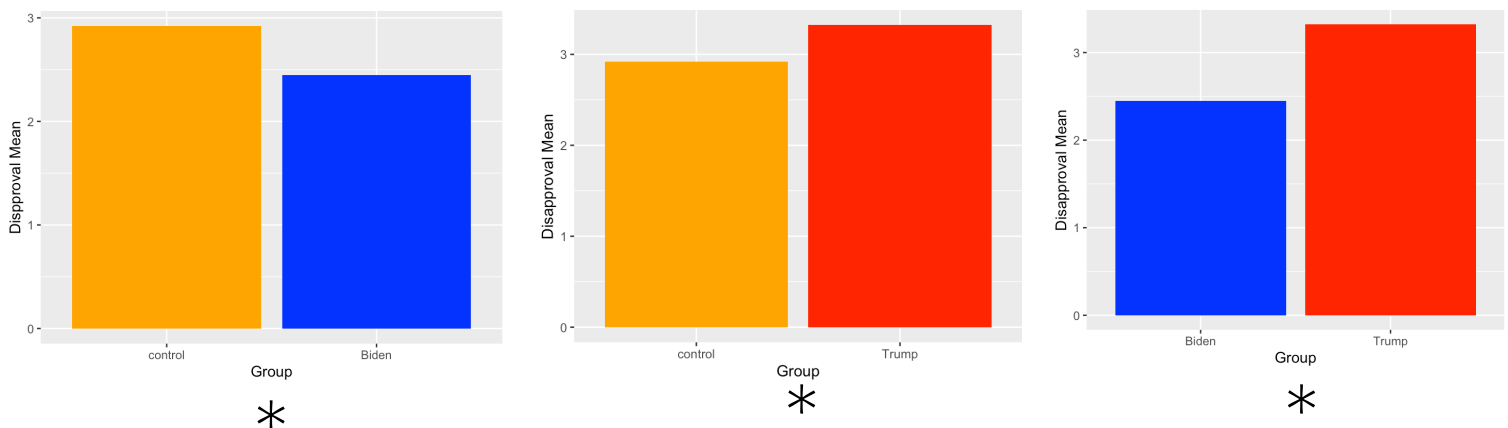
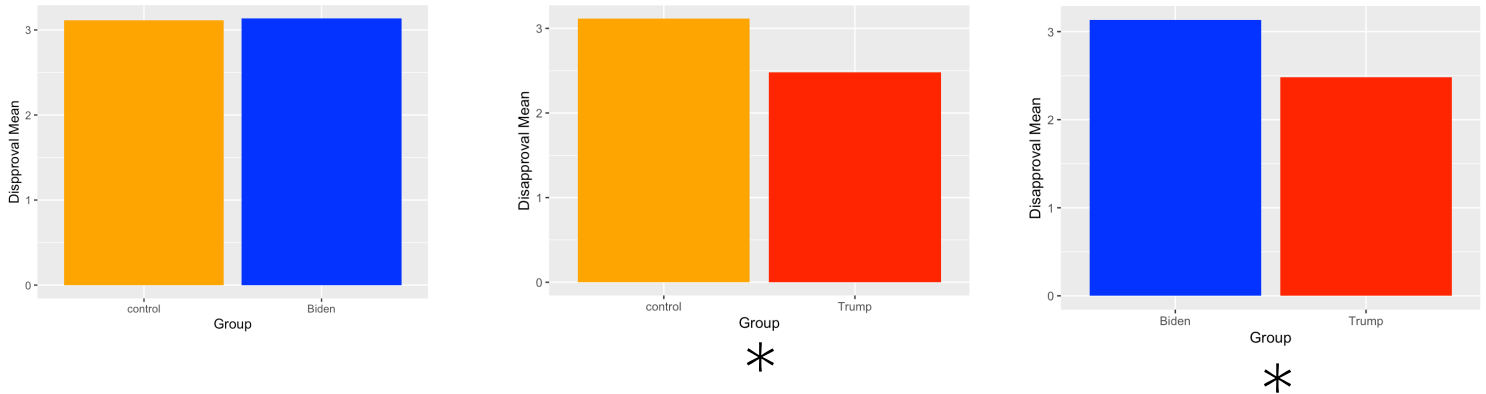


Figure 8: Difference in Means for Republicans on Signing Statement Question



Figures 9 and 10 show the difference in means for Democrats and Republicans on the pardon question. For these tests, only two of the three were statistically significant for both parties, possibly signaling that the pardon of a murderer was a bit harder to swallow than the previous actions.

Figure 9: Difference in Means for Democrats on Pardon Question

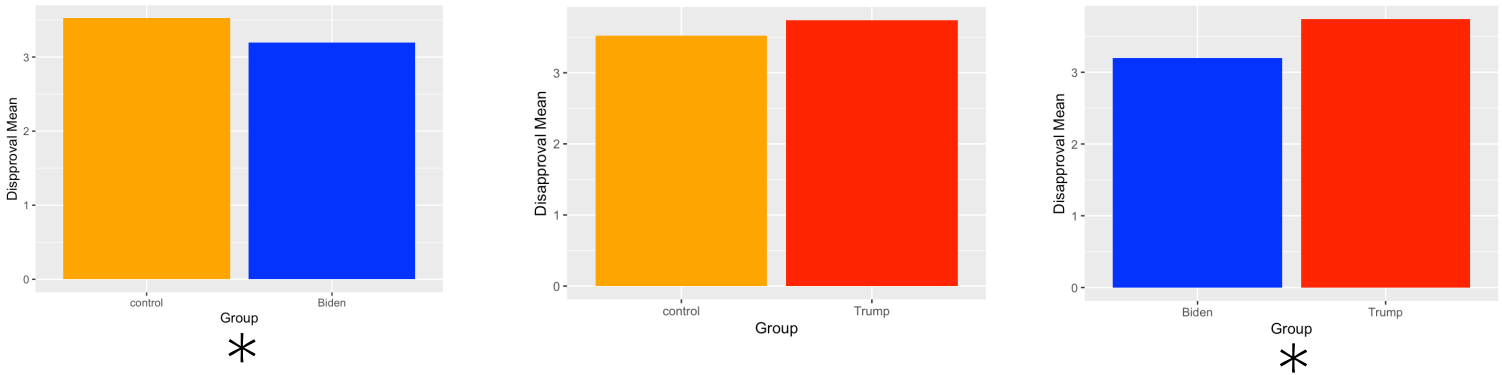
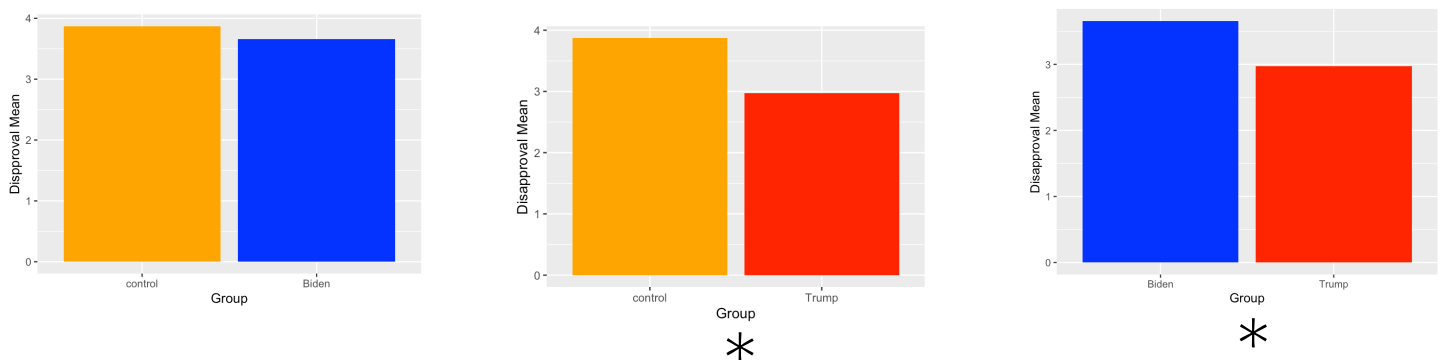


Figure 10: Difference in Means for Republicans on Pardon Question



Discussion

Overall, the results show support for the theorized direction. Respondents did support their in-party president using the unilateral power and disapproved more of the out-party president using the power. The effect is more pronounced in the disapproval than in the approval categories, showing the power of the out-party to motivate individual choice. This is consistent with the phenomenon of negative partisanship, when voters are more motivated to vote against the out-party candidate than vote for their in-party candidate (Bankert 2021, 2022; Iyengar, Sood, and Lelkes 2012). Though not measured here, this concept of negative partisanship provides the backdrop to these findings.

There were clear swings in approval, which depended on the party of the respondent and the president in the question. This leads to questions of whether public opinion really is an effective check on unilateral power, if it is moderated by partisanship. The implications of these findings are important and help us understand how the public operates in our hyper-partisan society, and have normative ramifications for a democratic system. The survey results suggest that, when confronted with an action that they would highly disapprove in an opposite-party president, respondents are accepting of the action when their same-party president does it. It brings up questions of accountability if the public is only willing to push back on abusive actions when it is a member of the opposite party. How can we rely on the public to check an abusive president if it involves a president of their own party? How do we hold presidents accountable when they take actions that abuse their power? Is it good for a democracy to rely on a hyper-partisan public to check their elected officials?

Unilateral powers of the president have been around since the founding of the republic. Some, such as the clemency power, are mentioned in the Constitution while others have been expanded upon by subsequent presidents throughout history. During that time, how the public

reacts to presidents using, expounding, and abusing (depending on who you ask) these powers has been studied by few scholars. The modern presidency has many unilateral actions, with officeholders using executive orders to get around a gridlocked Congress, declaring large swaths of land as national monuments to advance conservation policy, or issuing pardons at the end of their terms. As this has been happening, partisanship and polarization have been increasing. Citizens are increasingly viewing their elected leaders via the lens of partisanship.

The results of this survey bear that out. The theorized outcome was that citizens would care more about the party of the president using the unilateral power rather than the actual underlying power. The use of the power itself is not significant, but rather how it is used to further a partisan agenda. Such an outcome can be seen in the patterns of the responses. When the co-party president was the one using an executive unilateral power, partisans approved more of its use. When the opposite-party president used the power, partisans very much disapproved of its use. This swing in approval depending on which party holds the office of the presidency is consistent with prior expectations, given the increase in partisanship and polarization in our society. Donald Trump and Joe Biden have each taken office during a heightened time of polarization, when many citizens seem to have a strong opinion, positive or negative, of their job performance in office³⁰ (Wayne 2022) through the lens of partisanship.

Another interesting finding from the survey results is that Democrats are more disapproving of the unilateral powers in the control groups than Republicans or Independents. These were the questions with generic presidents that did not mention a specific name or party. Democrats were more skeptical of presidential power as a baseline in this survey, which tracks with results of other

³⁰ Eliza Collins, "Poll: Clinton, Trump Most Unfavorable Candidates Ever," *USA Today*, August 31, 2016, <https://www.usatoday.com/story/news/politics/onpolitics/2016/08/31/poll-clinton-trump-most-unfavorable-candidates-ever/89644296/>

surveys in which Democrats tend to be more skeptical of presidential power than Republicans.³¹

When looking at Republican responses of the survey, many of the expected values generated by likelihoods were in the opposite direction than theorized, showing that perhaps sometimes Republicans do not always put party above governance. This finding needs to be examined deeper to further tease out this distinction and what is driving it.

These results build upon work done on unilateral power by previous scholars. Christenson and Kriner (2020) argue that the check on presidential unilateral power is not institutional but political: public opinion. The results of this survey uphold that statement, as partisanship and polarization of the electorate is very much a political check on the president. The authors also find that presidents consider public opinion when considering using a unilateral power and the political costs of such an action. These survey results uphold that position; not only do presidents have to consider the public reaction to an action taken but specifically the partisan reaction and how the members of the parties will respond. Given these results, presidents should expect to have the strong support of their own party members, and that support could embolden them to use such power in the future. On the other hand, they should anticipate having the strong disapproval of the opposite party and would need to weigh whether the dissent is worth the risk and how it could affect their overall public standing.

Scholars Reeves and Rogowski (2022) state that voters hold presidents accountable for how they use their powers to accomplish their agenda. They write that they “expect presidents to make use of unilateral action at lower rates than they might prefer, given their policy preferences” and public opinion influences how presidents govern. Given the results of this survey, I would expect the same of presidents with the restraint of partisanship. They also state that their results show how

³¹ Amina Dunn, “Republicans Now Are More Open to the Idea of Expanding Presidential Power,” Pew Research Center, August 7, 2019, <https://www.pewresearch.org/politics/2019/08/07/republicans-now-are-more-open-to-the-idea-of-expanding-presidential-power/>

the public is deeply concerned with core democratic values and how presidents use their power while also being skeptical of unilateral power. My results here add to these findings and expand them with the lens of partisanship and affective polarization. The trend of partisanship that scholars have warned has consequences for democratic values is seen in these results, as partisans can be swayed to support the party in the office of the presidency and not the underlying unilateral power being used. In addition to being skeptical of unilateral power, these results show that there is an additional partisan element to the skepticism among the electorate. While the public overall might not give a blank check to the president for using unilateral powers, partisans might.

Overall, the results of the survey were in the direction theorized. Citizens, when push comes to shove, do tend to prioritize party and partisanship over the actual unilateral power available to the president. The pull of negative partisanship and affective polarization are strong and can lead some partisans to be accused of hypocritical stances, as was displayed in the opening anecdote of this paper from Sen. Paul. Party is a strong motivator, and, as we have seen in many contemporary examples, partisans feel stronger about their opposite-party president using a power than their co-party president. When relying on the public as a check on abusive presidential power, can they be trusted to push back on an in-party president? These results leave numerous questions about our government and society moving forward. Will democracies withstand if there is not accountability from its citizens? The lens of partisanship is a strong one and clouds the ability for citizens to hold leaders accountable.

CHAPTER 3

PUTTING THE BULLY IN BULLY PULPIT: PUBLIC SENTIMENT ON PRESIDENTIAL CRITICISM OF THE SUPREME COURT

Introduction

On the evening of March 7, 2024 President Joe Biden stood in front of a joint session of Congress to deliver what would be his final State of the Union address to the nation as president. As expected, the speech carried themes of the major issues of the day: foreign policy, inflation, and reproductive rights. Given that it was an election year where, at the time, he was still running for reelection, many expected the section on abortion and reproductive rights to be a strong one. However, it was surprising when the president was quite blunt when speaking to the justices of the Supreme Court, whose majority had overturned the landmark *Roe v. Wade* case in 2022.

Speaking of the decision to overturn *Roe*, President Biden said:

“Look, its decision to overturn *Roe v. Wade*, the Supreme Court majority wrote the following — and with all due respect, Justices — ‘Women are not without electoral — electoral power’ — excuse me — ‘electoral or political power.’

You’re about to realize just how much you were right about that.

Clearly — clearly, those bragging about overturning *Roe v. Wade* have no clue about the power of women.

But they found out. When reproductive freedom was on the ballot, we won in 2022 and 2023. And we’ll win again in 2024.”³²

This was a rare move for a president to do, especially since six of the nine justices were sitting in the chamber listening to the speech.³³ Headlines from this moment in the speech noted

³² White House transcript, March 8, 2024: <https://bidenwhitehouse.archives.gov/state-of-the-union-2024/>

³³ Rachel Schilke, “State of the Union 2024: Six Supreme Court Justices Attend Biden’s address,” Washington Examiner, March 7, 2024, <https://www.washingtonexaminer.com/news/2909835/state-of-the-union-2024-six-supreme-court-justices-attend/>

how forceful it was, stating that Biden “laid into” the justices³⁴, “admonishes” them³⁵, and “rebukes” the justices.³⁶

It was reminiscent of when his predecessor, for whom he served as vice president, publicly rebuked the Supreme Court by criticizing the ruling in *Citizens United v. FEC* during the 2010 State of the Union address.³⁷ President Barack Obama stated: “With all due deference to separation of powers, last week the Supreme Court reversed a century of law that I believe will open the floodgates for special interests – including foreign corporations – to spend without limit in our elections. I don’t think American elections should be bankrolled by America’s most powerful interests, or worse, by foreign entities. They should be decided by the American people. And I’d urge Democrats and Republicans to pass a bill that helps to correct some of these problems.”³⁸ After the speech, Chief Justice John Roberts painted it as a partisan “pep rally” and said it was “troubling” how the justices had to sit there without a reaction.³⁹ This volley of a president and Supreme Court justice publicly criticizing each other is rare, as throughout history “presidents and chief justices have been restrained in their public criticisms of each other.”⁴⁰

³⁴ Tom Porter, “Biden laid into SCOTUS justices to their faces in the State of the Union speech: They weren’t amused,” Business Insider, March 8, 2024, <https://www.businessinsider.com/biden-chastizes-supreme-court-justices-at-state-of-the-union-2024-3>

³⁵ Natasha Korecki, “Biden admonishes Supreme Court for overturning Roe v. Wade during State of the Union address,” NBC News, March 7, 2024, <https://www.nbcnews.com/politics/joe-biden/biden-admonishes-supreme-court-overturning-roe-v-wade-rcna142390>

³⁶ Andrew Restuccia, “Biden Rebukes Supreme Court Justices on Abortion,” The Wall Street Journal, March 7, 2024, <https://www.wsj.com/livecoverage/biden-state-of-the-union-2024/card/biden-rebukes-supreme-court-justices-on-abortion-HRIhOpFgYTE3RPjAOaqD>

³⁷ Jan Crawford, “Alito Wines as Obama Slams Supreme Court Ruling,” CBS News, January 28, 2010, <https://www.cbsnews.com/news/alito-wines-as-obama-slams-supreme-court-ruling/>

³⁸ White House transcript, January 27, 2010, <https://obamawhitehouse.archives.gov/the-press-office/remarks-president-state-union-address>

³⁹ Nina Totenberg, “Roberts Slams ‘Pep Rally’ Scene At State Of Union,” NPR News, March 10, 2010, <https://www.npr.org/2010/03/10/124537470/roberts-slams-pep-rally-scene-at-state-of-union>

⁴⁰ Quinn Bowman, “Criticism of President by Justice Is as Rare as Criticism of Court During SOTU,” PBS Newshour, March 11, 2010, <https://www.pbs.org/newshour/politics/coyle-criticism-of-president-by-justice-is-rare>

In this particular instance, President Obama brought up deference to separation of powers and realized that he was crossing such lines by openly criticizing the Court in such a public manner. Traditionally, presidents have refrained from criticizing the Court, at least in public. There is a tradition of respecting the separation of powers set forth by the Founders, and presidents have generally followed that custom. Yet, since it is a custom and not a law, recent presidents have increasingly seen it as worth the political and public risk to their reputation to criticize a Court ruling they did not agree with. But the central question in all this situation is this: how does the public feel about such public condemnations of the Court? Do citizens approve when their leader crosses those traditional lines? Does it bother them that the idea of separation of powers is not being respected? Answering these questions will help us understand this moment in our democracy and how democratic norms will fare going forward.

Presidents and Supreme Court rulings

There has long been a norm in our system of separation of powers that the president respects the ruling of the Supreme Court, even if they disagree with the outcome. This norm lays out the idea that the president and Congress do not intervene in the decision-making of the federal judiciary (Redish 1995). Legal scholars have written that the president is legally bound to abide by and enforce a Court decision. One wrote that the president has a duty to obey Court judgments⁴¹; another wrote “the President is legally bound to execute federal court judgments and for two hundred years all American Presidents not engaged in suppressing a Civil War have viewed themselves as being so bound” (Calabresi 1999). The norm of presidential deference is established as being “widespread agreement that the executive has a legal duty to enforce valid final judgments rendered by courts, regardless of whether the executive agrees with the legal analysis that forms the basis for the judgment”(Johnsen 2000). It was also pointed out that “because the courts have the

⁴¹ David H. Gans, “The President’s Duty To Obey Court Judgements,” June 2018, Constitutional Accountability Center

judicial power and jurisdiction over cases arising under the Constitution, when they issue final judgements in cases that involve constitutional interpretation, other branches must obey and enforce such judgments” (Prakash and Yoo 2005).

Throughout history, presidents have shown deference and respect for the rulings of the Court, even when they disagreed with them. Abraham Lincoln referenced this theme in his first inaugural address, referring to the *Dred Scott* decision and that as president he must respect it: “I do not forget the position assumed by some, that constitutional questions are to be decided by the Supreme Court; nor do I deny that such decisions must be binding, in any case, upon the parties to a suit, as to the object of that suit...And while it is obviously possible that such decision may be erroneous in any given case, still the evil effect of following it, being limited to that particular case, with the change that it may be overruled, and never become a precedent for other cases, can better be borne than could the evils of a different practice.”⁴²

Another occurred during the Korean War, during which President Harry Truman issued an executive order that directed the Secretary of Commerce to seize and operate most of the nation’s steel mills. This was an effort to avert strikes that were expected by the steelworkers at the time. The steel companies sued, and the case went to the Supreme Court; there the justices evaluated whether the president had the constitutional authority to seize the steel mills. In a 6-3 decision, the Court ruled against the president and found that he lacked the authority to engage in such behavior.⁴³ Truman respected the ruling, and after the opinion was released stated in a joint address to Congress on June 10, 1952 that the “case reached the Supreme Court, and on Monday, June 2, a majority of

⁴² *First Inaugural Address—Final Text* (March 4, 1861), in *The Collected Works of Abraham Lincoln*, 262-268, Roy P. Basler editor, 1953

⁴³ *Youngstown Sheet & Tube Company v. Sawyer*, 343 U.S. 579 (1952)

that Court decided that the President did not have the power, in this instance, to operate the mills. I immediately ordered that Government possession of the mills be relinquished.”⁴⁴

Then there is Richard Nixon, whose infamous tape recordings became essential evidence of his involvement in the Watergate break-in. As prosecutors sought the tapes, Nixon claimed he had executive privilege and was shielded from a subpoena for their release. The case went to the Supreme Court, who unanimously ruled that although the president did indeed possess executive privilege, he did not have privilege enough to fail to comply with a subpoena.⁴⁵ Following the ruling, President Nixon released a statement that read:

“While I am, of course, disappointed in the results, I respect and accept the Court’s decision, and I have instructed Mr. St. Clair to take whatever measures necessary to comply with that decision in all respects.

For the future, it will be essential that the special circumstances of this case not be permitted to cloud the rights of Presidents to maintain the basic confidentiality without which this office cannot function. I was gratified, therefore, to note that the Court reaffirmed both the validity and the importance of the principle of executive privilege--the principle I had sought to maintain. By complying fully with the Court's ruling in this case, I hope and trust that I will contribute to strengthening rather than weakening this principle for the future--so that this will prove to be not the precedent that destroyed the principle, but the action that preserved it.”⁴⁶

George W. Bush came up against the Court when it ruled against his administration in *Hamdan v. Rumsfeld*, ruling that Guantanamo detainees could not be tried by military commissions.⁴⁷ This, of course, was a roadblock in his administration’s War on Terror in the post-9/11 world. When asked about the Court’s ruling at a press conference, President Bush made clear he disagreed with the ruling but stated “I am willing to abide by the ruling of the Supreme Court.”⁴⁸

⁴⁴ Special Message to Congress on the Steel Strike, June 10, 1952, Public Papers, Harry S. Truman Library, <https://www.trumanlibrary.gov/library/public-papers/161/special-message-congress-steel-strike>

⁴⁵ *United States v. Nixon*, 418 U.S. 683 (1974)

⁴⁶ Statement Announcing Intention to Comply With Supreme Court Decision Requiring Production of Presidential Tape Recordings, July 24, 1974, Archived by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/256150>

⁴⁷ *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006)

⁴⁸ The President’s News Conference in Chicago, July 7, 2006, Archived by Gerhard Peters and John T. Woolley, The American Presidency Project, <https://www.presidency.ucsb.edu/node/216623>

Presidents do and have held up this judicial deference to the Supreme Court, as the previous examples have demonstrated. Yet there is context to this deference, as scholar Keith Whittington has spelled out, and depends on the political context in which a president finds themselves. The concept of political time, as developed by Stephen Skowronek (1993), means that each give different incentives and strategic choices to presidents in their deference to the Court. So while presidents have historically deferred to the highest court in the land, it depends on the political context. Yet the Court has “asserted the right to say what the Constitution means, and political leaders have generally chosen to respect that right” (Whittington 2007).

On the flip side, the courts often have shown deference to the executive. The federal district courts defer to the president in cases of foreign policy and war powers (Ducat and Dudley 1989). This even filters down to the states, where one analysis found that state supreme courts are more likely to uphold executive power where there are threats of institutional retaliation from the executive (Johnson 2015). Yet one analysis found that Supreme Court deference to the president has declined in recent decades; it reached its peak in the Reagan administration and has come down since then (Epstein and Posner 2018). And the current iteration of the Supreme Court, the Roberts Court, has been found to be the most “anti-president” as it has ruled against the president at a greater rate than any other previous Court (Brown and Epstein 2023).

Presidents have traditionally tried to influence the Supreme Court by exercising their constitutional power of appointing justices to the bench. This, of course, gives presidents the ability to select members of the Court and put judges there that align with their ideological preferences. This is a powerful way to shape the Court, as presidents via their appointments are able to draw the Court median closer to their own ideal point (Cottrell, Shipan, and Anderson 2019). Even in the 19th Century, presidents used the appointment of judges to advance their partisan agendas (Gillman 2002). This appointment power is enduring as it pays lasting dividends beyond shaping the ideology;

justices do vote more frequently with the government's side when the president who appointed them is in office and for subsequent presidents of the same party (Epstein and Posner 2016). There is also an effect going the other direction as the Court is influenced by the ideology of the president as well (Curry, Pacelle, and Marshall 2008). The president's position also influences when Congress does reverse Supreme Court rulings (Meernik and Ignagni 1997).

Public opinion is an important part of the relationship between the highest court in the land and the executive. One study found that the Supreme Court's ability to constrain the executive greatly depends upon public opinion, and the public offers an indirect enforcement on the executive via the Court's rulings (Carrubba and Zorn 2010). Presidents can shape public opinion of the Court's decision in low-salience issue areas, but have a more difficult time in high-salience cases (Collins, Jr. and Eshbaugh-Soha 2019). Historically, the Supreme Court has had the highest approval ratings among the three branches of government, but that support has fallen in recent decades (Sinozich 2017) and has a relatively high level of diffuse support (Caldeira and Gibson 1992). A more recent analysis found that the Court has strong legitimacy support among the public and that view is divorced from partisan and ideological identifications (Gibson 2007). Another study found that respondents' views of the Court increased or decreased with news of the Court's public approval increasing or decreasing (Montgomery and Rogol 2023).

Central to the Supreme Court's public standing is the view of it as a legitimate institution. Even as views of the other branches have wavered and declined, the Court has had a higher legitimacy rating among the public (Gibson and Caldeira 2009). The Court's justices want and prefer to maintain the legitimacy of their institution, and it is something that drives them (Epstein and Knight 1998). This is something anecdotally justices care about and change their behavior to protect; Chief Justice John Roberts was reported to have changed his vote in a key case upholding the

Affordable Care Act to preserve institutional legitimacy.⁴⁹ This view of legitimacy comes from the view that the Court is not a political institution, but a legal and constitutional one (Gibson 2007). This goodwill can help the Court to change public opinion in the direction of their rulings, and is especially influential among those who view the Court positively (Hoekstra 1995). The president does have an effect on the Supreme Court's public standing as it depends strongly on co-partisanship; co-partisans of the president are more likely to approve of the Court than out-partisans (Bartels and Kramon 2022). Public opinion even acts as an influence on Supreme Court decisions, and this is most pronounced in nonsalient cases (Casillas, Enns, and Wohlfarth 2011). The public dislikes when the president speaks publicly about a Supreme Court case, whether it is pending before the Court or a decided case (Collins, Jr. and Eshbaugh-Soha 2019).

The Court's justices have noted the importance of legitimacy to their power, as stated in the opinion of *Planned Parenthood of Southeastern Pennsylvania v. Casey*. Justices O'Connor, Souter, and Kennedy wrote:

"The Court's power lies, rather, in its legitimacy, a product of substance and perception that shows itself in the people's acceptance of the Judiciary as fit to determine what the Nation's law means, and to declare what it demands The Court must take care to speak and act in ways that allow people to accept its decisions on the terms the Court claims for them, as grounded truly in principle, not as compromises with social and political pressures having, as such, no bearing on the principled choices that the Court is obliged to make. Thus, the Court's legitimacy depends on making legally principled decisions under circumstances in which their principled character is sufficiently plausible to be accepted by the Nation."⁵⁰

The reason the Court's legitimacy is so important is because it does not have an ability to enforce and institute their rulings, it relies on the deference from the other government branches. Since it has no enforcement mechanisms, it relies on other political actors to enforce the rulings and

⁴⁹ Jan Crawford, "Roberts switched views to uphold health care law," CBS news, July 2, 2012, <https://www.cbsnews.com/news/roberts-switched-views-to-uphold-health-care-law/>

⁵⁰ *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833 (1992)

protect its legacy (Curry, Pacelle, and Marshall 2008; Hansford and Damore 2000; Harvey and Friedman 2006).

There also is an established norm of separation of powers between the Court and the legislature and the effect the Court has on constraining Congress. One analysis found that the Supreme Court profoundly constrains House members and Senators when casting their roll call votes (Martin 2001). Congress does and chooses to operate under the system of judicial review, particularly from the Supreme Court, and that relationship is influenced by the public's support for the Court (Ura and Wohlfarth 2010). The Court's decisions, though interactions with Congress, are nearly immune from Congress' court-curbing attempts (Blackstone and Goelzhauser 2019).

When the president has asked Congress to respond to a Court ruling, Congress is more likely to respond when the Court also requests Congress⁵¹ to act (P. M. Collins Jr. and Eshbaugh-Soha 2022). This is exemplified by Lilly Ledbetter's case before the Supreme Court and the subsequent law enacted by Congress. The case was lost before the Court, ruling it was beyond the statute of limitations, but in her dissent Justice Ruth Bader Ginsburg specifically called on Congress to act, writing: "Once again, the ball is in Congress' court. As in 1991, the Legislature may act to correct this Court's parsimonious reading of Title VII."⁵² The case was decided in 2007 and by January 2009, Congress passed and President Obama signed the Lilly Ledbetter Fair Pay Act, which expanded the rights of workers to sue by relaxing the statute of limitations.⁵³

Theoretical Expectations

The president (along with their vice-presidential running mate) is the only nationally elected figure in our system of government and thus has a national constituency. Members of Congress,

⁵¹ There might be instances in which the Court does not take a case and defers to Congress to resolve the issue, but we do not reliably know all the cases the Court declines to take and what the decision-making behind the rejection is.

⁵² *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007)

⁵³ Sheryl Gay Stolberg, "Obama Signs Equal-Pay Legislation," *The New York Times*, January 29, 2009, <https://www.nytimes.com/2009/01/30/us/politics/30ledbetter-web.html>

governors, state legislators, and other elected officials have a limited constituency and are motivated to serve that specific area of the country (Mayhew 1974). Thus the president has a national platform and uses the “bully pulpit” as Theodore Roosevelt envisioned (Greenberg 2011) and the president can influence public opinion from that pulpit. One analysis found that mentioning a topic in a State of the Union, a prominent nationally-televised address, leads to an increase in public concern for the policy (Cohen 1995). Presidents can even use this influence to remove issues from the national media agenda with a single televised address (Miles 2014).

Presidents are strategic in the use of their communications and its power. One strategy is known as “Going Public” where a president, frustrated by relations with Congress, goes directly to the public to present their perspective. The hope is that the president will persuade the public, which will create grassroots support and then individuals will contact their members of Congress to show support for a policy (Kernell 2007). This is facilitated by what some scholars have described as the president’s unique ability to persuade given the prestige of the office (Neustadt 1960).

What happens when the president turns the power of their public pulpit against the Supreme Court and decisions that they disagree with? Presidents use their influence under “Going Public” to speak about Supreme Court decisions to further their three main goals: reelection, policy change, and historical legacy. Presidents have historically discussed fewer pending cases before the Court and mostly discuss decided cases. This is not with the purpose of circumventing the norm of judicial independence, but with the goals of rallying public support, encouraging Congress to pass laws to remedy the ruling, or influencing media coverage of the case (Collins, Jr. and Eshbaugh-Soha 2019).

The relationship between the president and the Supreme Court is different from presidential-congressional relations, which has traditionally been very partisan and hinging on party control of Congress. The Supreme Court, however, is a wholly different creature; until recently most Americans viewed it as impartial, above the fray of partisan politics, and approved of it as an

institution.⁵⁴ The public, unlike Congress, might not be as inclined to view it as a political institution, but recent scholarly work shows that doubts of the Court's legitimacy have lingered since the *Dobbs* decision overturning *Roe v. Wade* (Gibson 2025). Despite that recent effect, citizens have traditionally viewed the Court as legitimate and garnering respect. Thus, the pull of the president's rhetoric has the potential to be stronger and help the president's supporters view it as such.

The president can move and influence public opinion, specifically among their supporters. One study found via an experimental test that people who approve of the president are likely to shift their opinions to reflect the president's stance on a Supreme Court decision, while those who do not support the president react in the opposite direction (Montgomery, Rogol, and Kingsland 2019). In another study that helps show that the president can bring co-partisans along to their view of the Court, it was found that respondents' support for the executive increased when they learned that a co-partisan executive was offended and disliked a Court decision (Montgomery, Rogol, and Fleming 2024). Another study found that when the president devoted more time to a specific topic area in the State of the Union address, the more likely the Court was to rule in the president's ideological direction (Rogol, Montgomery, and Kingsland 2018).

This is brought about by the mechanism of partisan motivated reasoning (Bolsen, Druckman, and Cook 2014) and we could see a situation where the president comes up against the Supreme Court allows for a time when that reasoning would come into play and lead partisans to agree with the president. People are motivated to arrive at a particular conclusion (Kunda 1999) and can be led to a certain attitude. Specifically, partisanship colors how people view situations and motivates them to a certain attitudinal direction (Druckman, Peterson, and Slothuus 2013).

⁵⁴ Joseph Copeland, "Favorable views of Supreme Court remain near historic low," Pew Research Center, August 8, 2024, <https://www.pewresearch.org/short-reads/2024/08/08/favorable-views-of-supreme-court-remain-near-historic-low/>

A survey experiment helps illustrate this point and the power of partisan cues. Using survey questions during the 2008 election, Nicholson (2012) used cues from partisan candidates John McCain and Barack Obama, each party's presidential nominees. The results showed that while the in-party cues did not move attitudes, out-party cues did and polarized people. The cues from politicians, not necessarily the parties, had an effect on respondents.

In a similar vein, I would expect partisans to act in a similar manner when presented with a situation when a president criticizes the Supreme Court: co-partisans would be more likely to side with the president and out-partisans would be more likely to side with the Supreme Court. Presidential approval is increasingly linked to party identification and being viewed through the lens of partisanship (Donovan et al. 2020). This is helped by the fact that many see party identification as an important identity and polarization has encouraged this phenomenon (Mason 2018).

Given these theoretical expectations, I investigate the following hypotheses:

H1: People will be more likely to side with their in-party president than the Supreme Court in a dispute over power

H2: People in the out-party will be more likely to side with the Supreme Court than the president of the opposite party in a dispute

H0: There is no difference in agreement between in-party and out-party members

Data and Methods

The purpose of this project is to test the relationship that partisanship plays when people are evaluating disputes between the president and the Supreme Court. To test such a relationship, an original survey experiment was fielded. Out of the overall survey with 4,500 respondents, my sample had roughly 640 respondents per question. Respondents were randomly assigned to one of seven questions, three of which had a follow up question.⁵⁵

⁵⁵ Full details about the survey can be found in the Appendix.

Participants were asked about disputes between the president and the Supreme Court, specifically when a president publicly criticizes the Court. Different presidents were presented to gauge reaction in these scenarios: Trump, Biden, and Obama. Each question presented a different example of a president clashing with the Court. They included siding with the Court or the president after an executive order was overturned, expressing disagreement with the Court's ruling in a press release, and criticizing a Court ruling in a State of the Union address. A proportional z-test was employed to compare the proportions of responses by party to test whether there was a statistically significant difference in how respondents answered the questions.

The questions were as follows:

Presidents' executive orders are sometimes challenged in court. The U.S. Supreme Court has even struck down some executive orders because it has found them to be unconstitutional. Presidents often disagree with the Court and publicly criticize it when this happens, claiming that the justices have encroached on executive authority. In disagreements of this kind between presidents and the Supreme Court, who do you think is right?

1. *The President*
2. *The Supreme Court*
3. *Neither*
4. *Both*
5. *I don't know*

Follow-up

Regardless of who you think is right, do you agree with the president's decision to publicly criticize the Court?

1. *Yes*
2. *No*
3. *Not sure*

President Biden's executive orders are sometimes challenged in court. The U.S. Supreme Court has even struck down some of his executive orders because it has found them to be unconstitutional. President Biden has disagreed with the Court and publicly criticized it, claiming that the justices have encroached on executive authority. In disagreements of this kind between President Biden and the Supreme Court, who do you think is right?

1. *The President*
2. *The Supreme Court*
3. *Neither*
4. *Both*
5. *I don't know*

Follow-up

Regardless of who you think is right, do you agree with the president's decision to publicly criticize the Court?

1. *Yes*
2. *No*
3. *Not sure*

During his presidency, President Trump's executive orders were sometimes challenged in court. The U.S. Supreme Court has even struck down some of his executive orders because it has found them to be unconstitutional. President Trump has disagreed with the Court and publicly criticized it, claiming that the justices have encroached on executive authority. In disagreements of this kind between President Trump and the Supreme Court, who do you think is right?

1. *The President*
2. *The Supreme Court*
3. *Neither*
4. *Both*
5. *I don't know*

Follow-up

Regardless of who you think is right, do you agree with the president's decision to publicly criticize the Court?

1. *Yes*
2. *No*
3. *Not sure*

During his presidency, President Obama issued a press release expressing his disagreement with the U.S. Supreme Court's decision to remove corporate campaign spending limits, a ruling that opened the floodgates for special interests and foreign corporations to limitlessly spend money in American elections. Do you think it was appropriate for President Obama to express his disagreement with the Court?

1. *Yes*
2. *No*
3. *Not sure*

While he was in office, President Obama, during a State of the Union address, condemned the U.S. Supreme Court's decision to remove corporate campaign spending limits, a ruling that opened the floodgates for special interests and foreign corporations to limitlessly spend money in American elections. Do you think it was appropriate for President Obama to publicly criticize the Court?

1. *Yes*
2. *No*
3. *Not sure*

President Biden issued a press release expressing his disagreement with the U.S. Supreme Court's decision to remove the constitutional right to abortion, a ruling that opened the floodgates for states to restrict access to abortion procedures. Do you think it was appropriate for President Biden to express his disagreement with the Court?

1. *Yes*
2. *No*
3. *Not sure*

President Biden, during a State of the Union address, condemned the U.S. Supreme Court for its decision to remove the constitutional right to abortion, a ruling that opened the floodgates for states to restrict access to abortion procedures. Do you think it was appropriate for President Biden to publicly criticize the Court?

1. Yes
2. No
3. Not sure

Results

I begin with the results for conflict over an executive order being overturned between a generic president, no mention of name or party, and the Supreme Court. Table 11 shows the results for this question by party identification. As predicted, Republicans were more likely to side with the Court, at 45.9% of Republicans siding with the Court in this dispute and making the largest response category for Republicans. Democrats were less sure, with the largest category being Don't Know at 34.1%, but with a larger percentage going for the president than Republicans, as was also expected. Independents also were more supportive of the Court than the president.

Table 11: Survey Results on Conflict Between President and Supreme Court over ruling on Executive Order by Party Identification

Party	Response				
	The President	The Supreme Court	Both	Neither	Don't Know
Democrat	11.8%	15.9%	20.5%	17.7%	34.1%
Republican	5.61%	45.9%	10.2%	14.8%	23.5%
Independent	4.38%	33.1%	13.1%	24.4%	25%
Other	0	38.9%	0	22.2%	38.9%
Not Sure	2.08%	10.4%	4.17%	31.2%	52.1%

The follow-up question asked whether the respondent agreed with the president's decision to publicly criticize the Court. In Table 12 we see the responses. A majority of Democrats agreed with a president criticizing the Court. Independents were more supportive of a president as well. Republicans were more likely to say No, although it was not quite a majority.

Table 12: Survey Results on Agreement of President's Decision to Publicly Criticize the Court by Party Identification

Party	Response		
	Yes	No	Not Sure
Democrat	55.5%	23.2%	21.4%
Republican	30.1%	49.5%	20.4%
Independent	47.5%	30%	22.5%
Other	38.9%	33.3%	27.8%
Not Sure	8.33%	31.2%	60.4%

Similar to the previous question, the proceeding question used President Biden's name, rather than a nameless president, who was in dispute with the Court. In Table 13 we see the results of this question. Democrats are much more supportive of the president's position, now that it is President Biden, and much less supportive of the Court. Republicans, as expected, are much more supportive of the Court at 69.8% and only 3.55% of Republicans in this question were supportive of President Biden. Independents again were more supportive of the Court and not President Biden, though not in a large majority.

Table 13: Survey Results on Conflict Between Pres. Biden and the Court by Party Identification

Party	Response				
	The President	The Supreme Court	Both	Neither	Don't Know
Democrat	42.5%	9.17%	12.5%	15.8%	20%
Republican	3.55%	69.8%	2.37%	14.2%	10.1%
Independent	14.2%	35%	12%	18%	20.8%
Other	19%	42.9%	14.3%	14.3%	9.52%
Not Sure	7.5%	15%	5%	22.5%	50%

The follow-up question asks whether respondents agree with President Biden publicly criticizing the Court. Table 14 shows the results of that question, where we see that Democrats are generally supportive of President Biden with a majority at 65.4%. Republicans are, as expected, almost the exact opposite at 69.2% not supportive of President Biden. Independents are almost evenly divided between agreement and disagreement, and neither is a majority.

Table 14: Survey Results on Agreement with Pres. Biden’s Decision to Criticize the Court by Party Identification

Party	Response		
	Yes	No	Not Sure
Democrat	65.4%	15.8%	18.8%
Republican	21.3%	69.2%	9.47%
Independent	43.7%	41.5%	14.8%
Other	57.1%	38.1%	4.76%
Not Sure	25%	22.5%	52.5%

We move on to the next question, which is of the same topic but with President Donald Trump as the president in the dispute with the Supreme Court. Table 15 shows the results by party identification, and it shows Democrats in an opposite response from the results for the Biden question. Here they agree with the Court at a rate of 58.4% and only 5.46% agree with President Trump. Republicans are supportive of President Trump, but only with a lukewarm plurality at 30.2%. The second-highest response was the Court at 26.5%. Independents had a higher plurality agreeing with the Court at 46.6%

Table 15: Survey Results on Conflict Between Pres. Trump and the Court by Party Identification

Party	Response				
	The President	The Supreme Court	Both	Neither	Don’t Know
Democrat	5.46%	58.4%	2.1%	21.4%	12.6%
Republican	30.2%	26.5%	12.2%	11.6%	19.6%
Independent	6.76%	46.6%	10.1%	18.2%	18.2%
Other	12.5%	50%	12.5%	8.33%	16.7%
Not Sure	0	17.1%	9.76%	31.7%	41.5%

The follow-up question, displayed in Table 16, shows whether respondents agree with President Trump criticizing the Court publicly. Democrats, unsurprisingly, disagreed with the majority saying No at 52.9%. Republicans supported President Trump, but once again with a plurality at 47.1%; Independents also had a plurality disagreeing with Trump at 42.5%.

Table 16: Survey Results on Agreement with Pres. Trump's Decision to Criticize the Court by Party Identification

Party	Response		
	Yes	No	Not Sure
Democrat	29%	52.9%	18.1%
Republican	47.1%	29.6%	23.3%
Independent	29.7%	42.6%	27.7%
Other	37.5%	41.7%	20.8%
Not Sure	9.76%	36.6%	53.7%

Table 17 shows the results of the question which asked whether respondents agreed with President Barack Obama criticizing a Court ruling in a press release. Democrats overwhelmingly agreed with President Obama, at 78.4%, as well as Independents at 54.7%. Republicans were somewhat tepid in their support, with 43.3% agreeing with Obama.

Table 17: Survey Results on Agreement with Pres. Obama criticizing the Court via a release by Party Identification

Party	Response		
	Yes	No	Not Sure
Democrat	78.4%	7.49%	14.1%
Republican	43.3%	33.3%	23.3%
Independent	54.7%	23.%	22.4%
Other	67.6%	14.7%	17.6%
Not Sure	38.6%	6.82%	54.5%

Next, we move on to a question involving President Obama criticizing a Court ruling in a State of the Union address which, as mentioned earlier, he did in his 2010 address. In table 18 we see that Democrats again overwhelmingly agree with his decision at 67.8%. Republicans were more unified in their disagreement here with 50.6% of Republicans not agreeing with such behavior. Independents at a rate of 50.5% agree with Obama.

Table 18: Survey Results on Agreement with Pres. Obama criticizing the Court in a State of the Union Address by Party Identification

Party	Response		
	Yes	No	Not Sure
Democrat	67.8%	8.78%	23.4%
Republican	28.5%	50.6%	20.9%
Independent	50.5%	24.5%	25%
Other	36.7%	33.3%	30%
Not Sure	23.7%	21.1%	55.3%

When President Biden criticizes the Court via a press release, Democrats, again unsurprisingly, overwhelmingly agree with Biden at a rate of 76.3%, displayed in Table 19. Republicans are a rate of only 28.7%. A majority of Independents also agree with Biden.

Table 19: Survey Results on Agreement with Pres. Biden criticizing the Court via a release by Party Identification

Party	Response		
	Yes	No	Not Sure
Democrat	76.3%	9.91%	13.8%
Republican	28.7%	49.4%	21.8%
Independent	56.2%	25.3%	18.5%
Other	66.7%	11.1%	22.2%
Not Sure	38.9%	13.9%	47.2%

The final question asks about President Biden calling out the Supreme Court in a State of the Union address, as the opening anecdote illustrated. In Table 20 we see that Democrats again overwhelmingly support Biden, and Independents do so with a plurality. Republicans here are more unified in their disagreement at 69.9%, a higher rate of disagreement than for other questions with Democratic presidents.

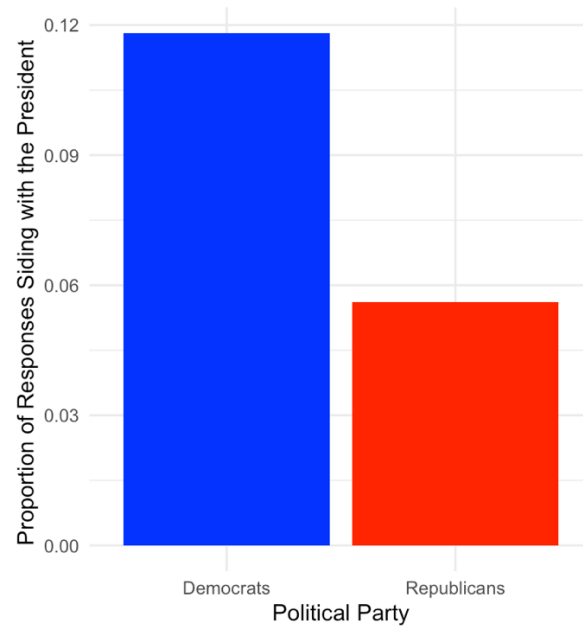
Table 20: Survey Results on Agreement with Pres. Biden criticizing the Court in a State of the Union Address by Party Identification

Party	Response		
	Yes	No	Not Sure
Democrat	73.4%	11.7%	15%
Republican	18.8%	69.9%	11.4%
Independent	42.9%	37.9%	19.2%
Other	38.2%	35.3%	26.5%
Not Sure	17.4%	34.8%	47.8%

A proportional Z-test was employed and helps us understand how many respondents, by party, agree with the president or the Court in each question. When looking at the difference in proportions, we see that in the first question of conflict between a president and the Supreme Court over a ruling on an executive order, Democrats were more likely to agree with the president (0.11). Republicans, by contrast, were more likely to side with the Court (0.05).⁵⁶ The difference is statistically significant and shown in Figure 11. The follow-up question is statistically significant. Democrats were more likely to agree with the president's decision to call out the Court (0.55) than were Republicans (0.30). These results are displayed in Figure 12.

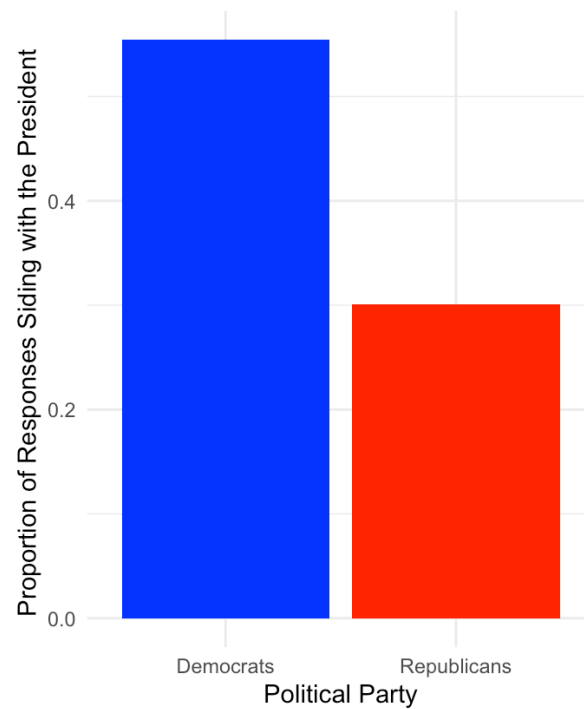
⁵⁶ The full results of the Z-tests can be found in the Appendix.

Figure 11: Proportion of Responses on Conflict between President and Supreme Court over Executive Order Ruling by Party



The next grouping looks at differences by party on the same question for President Biden. Democrats, as expected, backed Pres. Biden at a higher rate (0.42) than Republicans (0.03) and is statistically significant. These proportions are shown in Figure 13. Figure 14 shows the proportions for the follow-up question, which was also statistically significant. It shows that Democrats are more likely to side with Biden (0.65) than Republicans (0.21).

Figure 12: Proportions of Responses on Agreement of President's Decision to Publicly Criticize the Court by Party



When looking at responses on the question between President Trump and the Supreme Court, the results differ by party. Democrats supported Pres. Trump less (0.05) than did Republicans (0.30), is statistically significant and shown in Figure 15. The follow-up question is also statistically significant. Democrats were with Trump less (0.28) than Republicans (0.47) as shown in Figure 16.

Figure 13: Proportion of Responses for Conflict Between Pres. Biden and the Court by Party

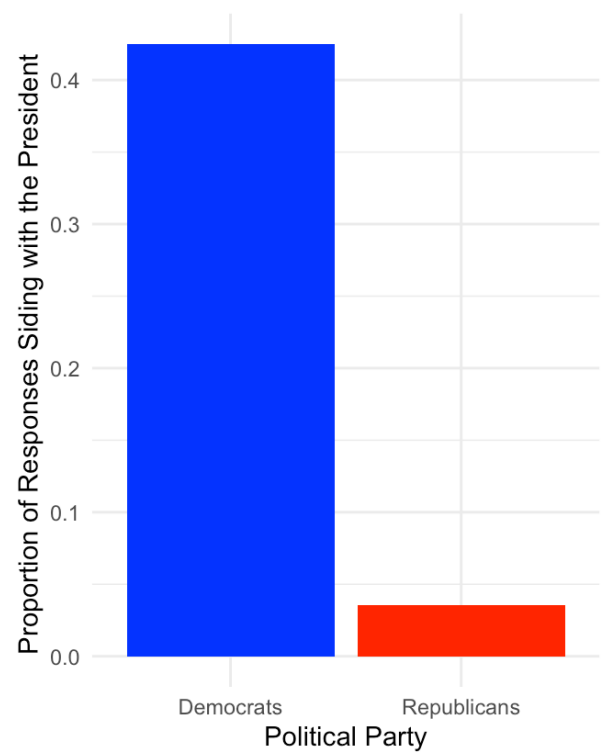


Figure 14: Proportion of Responses on Agreement with Pres. Biden’s Decision to Criticize the Court by Party

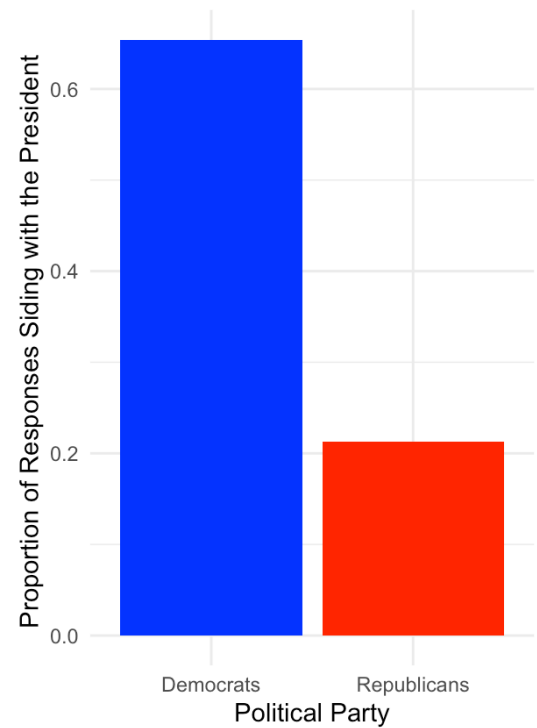


Figure 15: Proportion of Responses for Conflict Between Pres. Trump and the Court by Party

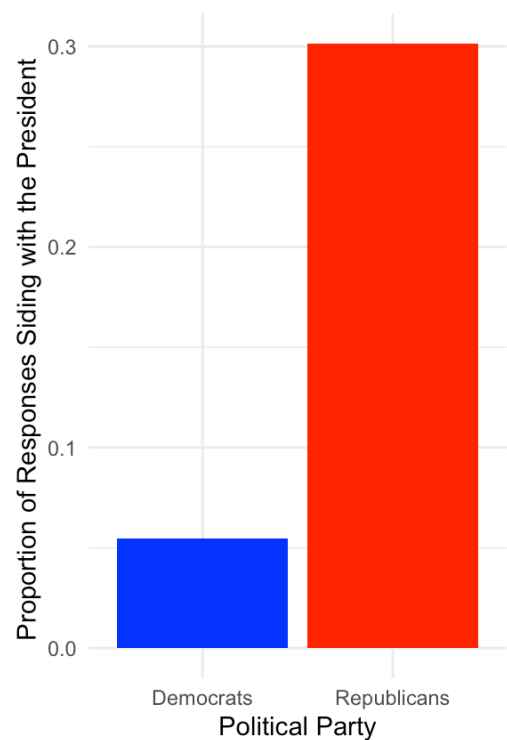
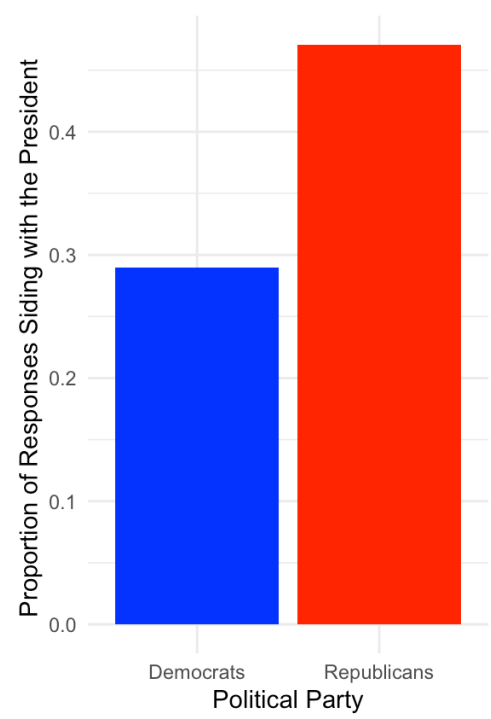


Figure 16: Proportion of Responses on Agreement with Pres. Trump’s Decision to Criticize the Court by Party



When employing the proportion z-test on differences of responses by party for the Obama press release question, the difference is statistically significant. Democrats were more likely to agree with Obama's criticism (0.78) than were Republicans (0.43), as displayed in Figure 17. The difference in proportions for the next Obama question, regarding criticizing the Court during a State of the Union address, is displayed in Figure 18 and is also statistically significant. Democrats were more likely to agree with Obama (0.67) than were Republicans (0.28).

The final two tests show the difference in proportions for the final questions about President Biden. The first, on agreement with him criticizing the Court via a press release, was statistically significant. Democrats were more likely to agree with Biden (0.76) than were Republicans (0.28) as in shown in Figure 19. The next one, agreement with Biden criticizing in a State of the Union address, is shown in Figure 20 was statistically significant as well. Democrats were more likely to agree with Biden (0.73) than Republicans (0.18).

Figure 17: Proportion of Responses on Agreement with Pres. Obama Criticizing the Court via Release by Party

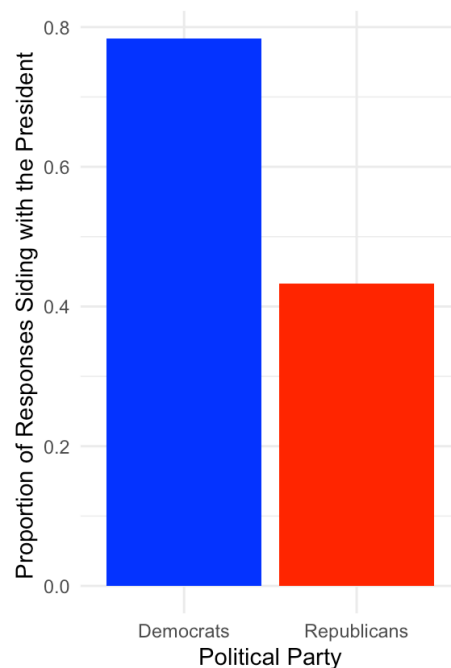


Figure 18: Proportion of Responses on Agreement with Pres. Obama Criticizing the Court in a State of the Union Address by Party

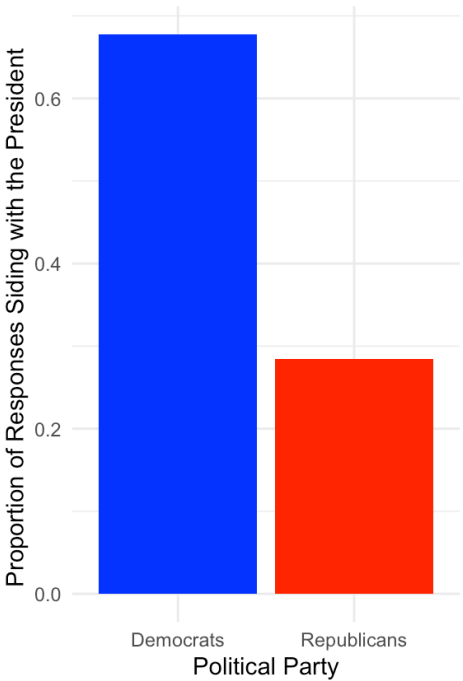


Figure 19: Proportion of Responses on Agreement with Pres. Biden Criticizing the Court via Release by Party

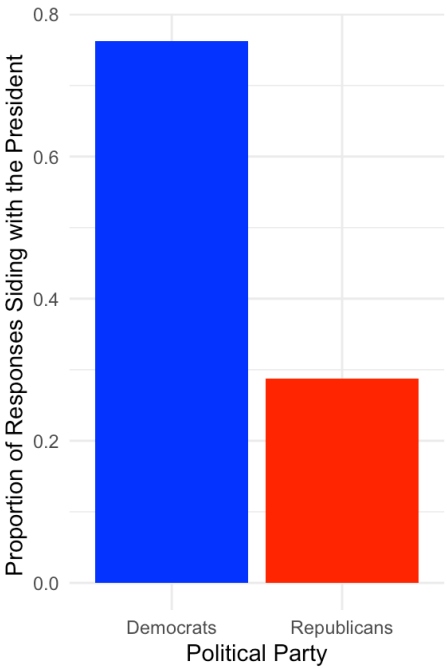
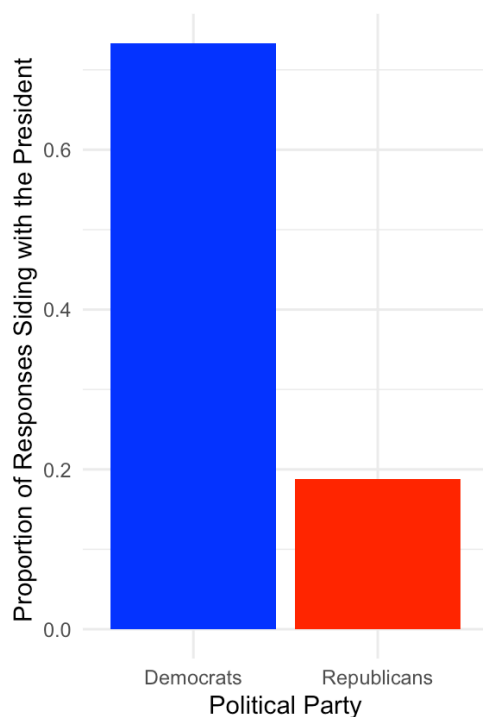


Figure 20: Proportion of Responses on Agreement with Pres. Biden Criticizing the Court in a State of the Union Address by Party



Discussion

Scholars have found that partisans are likely to respond and agree with their co-partisan president in disputes with the Supreme Court, but few have looked at direct confrontations between these two branches and how partisans would respond. I employ a survey experiment here to test who partisans will side with when such disputes arise. The results of the survey, and as confirmed by the difference in means tests, show that partisans are more likely to side with their co-party president than the Court in such disputes; out-partisans are more likely to side with the Court than the out-party president. This pattern is as expected, as previous scholars have shown that supporters of the president are likely to follow the president's opinion of the Court's decisions (Montgomery, Rogol, and Kingsland 2019).

In the questions asking for agreement on whether the president should have publicly criticized the Court, the survey and z-test results show that co-partisans were more likely to agree with the presidential behavior and out-partisans were not. Independents were more likely to side with the president, but that support was much less forceful than it was for the co-partisan respondents.

The random assignment of the questions to the respondents helps to eliminate confounders and naturally controls for other factors that could be affecting the results. Given our polarized and partisan political environment, the results confirm my a priori expectations. Support was found for both hypotheses, leading me to better understand how partisans react when the president attacks the Supreme Court and the power the president has among their fellow partisans.

While this project does not measure negative partisanship or affective polarization, these effects are in the background of our political environment and are consistent with those findings. These results are not surprising, as mentioned, due to the polarized era in which we find ourselves. More and more voters have been found to be motivated by negative partisanship, which causes them to oppose the out-party person more vigorously than support their in-party person (Bankert 2021, 2022; Iyengar, Sood, and Lelkes 2012). This partisanship is what some call a “two-party doom loop” (Drutman 2020) and leads to polarization, as partisanship has become an important identity for people (Mason 2018). These results do speak to the hyper-partisanship of the public. Everything that people see is viewed through the lens of partisanship and what it means for your “side” of the system. We see that our political leaders frame everything in terms of the “other side” and what it means in a zero-sum game. The results of this survey show that partisans are hyper-partisan and base their opinions of the Supreme Court from the partisan signal of a high-profile elite: the president. In our hyper-partisan era, we are sure to see more of this moving forward.

How robust these findings are is a case for further investigation. These results uphold the theorized direction, given the trends of partisanship and polarization in our country. Yet, these survey questions asked about general topics of conflict between the executive and the Court and not specific cases. Would the president still have the same effect on moving public opinion of their co-partisans if it were a specific policy area? These questions require more investigation, but I suspect the results could vary based on the nature of the judicial case. For example, President Trump has signaled in his second term he might not be as committed to the pro-life cause as some thought, as people on the right-wing are already upset at his policies in this area.⁵⁷ If Trump were to speak out against a pro-life ruling, some Republicans might not follow him in that direction. Further survey questions about specific cases or certain policy areas might be needed to answer this question.

The question also arises that if the president can have this effect on public opinion, why has this not occurred more often? Why have we only seen this in more recent years and not across all American history? More research is needed here, as well, but I will offer a couple observations to answer this question. The first is that there has been a norm of judicial independence and presidents throughout history have respected the Court to not openly criticize its rulings. Another reason might be the diminishing power of the bully pulpit of the president (Edwards 2003), as presidents have much more sources to compete with for attention. With our explosion of social media, cable channels, technology, and more, citizens have many things to pay attention to and may not hear the president's words in a speech about a Supreme Court case. More research into this area is needed to see how powerful the president's public rhetoric still is.

As mentioned at the outset of this chapter, presidents have historically respected the rulings of the Supreme Court. This has happened, even when they have greatly disagreed with the ruling.

⁵⁷ Chris Enloe, "Pro-life betrayal: Why Trump's IVF order signals a dark compromise," *The Blaze*, February 23, 2025, <https://www.theblaze.com/abide/trump-ivf-executive-order-dark-compromise>

Yet we see that the three most recent presidents—Obama, Biden, and Trump—have been willing to publicly criticize the Court more so than their predecessors. Even Richard Nixon, whose loss in the Supreme Court meant he had to give up the tapes and which started the final downfall of his presidency, complied and did not disparage the Court much in the wake of the ruling. If ever there was a time for a president to ignore or lash out at the Court, that would have been the time. Still Nixon understood the norm of respecting the other branches at that moment. We even saw President Trump, just a few months into his second term, lash out at judges blocking his executive actions, calling for impeachments; this led to a rare public rebuke from Chief Justice John Roberts.⁵⁸

Presidents have challenged the Court in the past, as Andrew Jackson in a famous (and likely apocryphal) quote where he stated, “John Marshall has made his decision, now let him enforce it.”⁵⁹ However, these have been less common. Yet we are starting to see in the second Trump administration, as the president’s executive actions are going to court, a greater willingness to oppose court rulings. Vice President JD Vance issued a tweet in the early weeks of the new administration that “Judges aren’t allowed to control the executive’s legitimate power.”⁶⁰ Other commentators, including a Yale law professor⁶¹, are supportive of the idea that judges cannot infringe on the executive’s power. The results of this survey suggest that the president could bring their partisans along with them in a separation of powers standoff. With these trends, we could see the country moving towards a constitutional crisis. Only time will tell.

⁵⁸ Adam Liptak, “Rebuking Talk From Trump, Roberts Calls Impeaching Judges Over Ruling Improper,” *The New York Times*, March 18, 2025, <https://www.nytimes.com/2025/03/18/us/chief-justice-roberts-impeachment-trump.html>

⁵⁹ Thomas A. Donovan, “At Sidebar,” *The Federal Lawyer*, September 2012, <https://www.fedbar.org/wp-content/uploads/2012/09/sidebar-sep12-pdf-1.pdf>

⁶⁰ Tweet, February 9, 2025, @JDVance, <https://x.com/JDVance/status/1888607143030391287>

⁶¹ Tweet, February 10, 2025, @Jed_Rubenfled, https://x.com/Jed_Rubenfled/status/1888999774407290952

CONCLUSION

After the constitutional convention created a document that needed to be ratified by the states, the Federalists set about to persuade the public to accept the new system of government by publishing a series of papers arguing for its adoption. In one, James Madison wrote about how power in the new system would be separated to avoid despotism, stating “*The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, selfappointed, or elective, may justly be pronounced the very definition of tyranny.*”⁶² The founders of our nation were wary of monarchical power, having just declared independence from a king, and wanted to make sure the new chief executive would not become a king.

Since the constitution was ratified, 45 individuals have occupied the highest office in the land. Each has left their own imprint on the office and tested the limits of presidential power. The public has given their take, through elections and public support, on the actions each subsequent president has taken under executive authority. Given the high-profile nature of the presidential office, the public has an opportunity to scrutinize each action. The constitution grants the freedom of speech, and Americans throughout our history have used that right to express displeasure at the president and executive actions. Examples include protests in front of the White House at the height of the Vietnam War that were so loud the Johnson family could hear it from inside the building.⁶³ The public has been told that the government is “of the people, by the people, for the people”⁶⁴ and feels entitled to wield such power.

⁶² The Federalist Papers: No. 47, James Madison, February 1, 1788, Archived by the Avalon Project, https://avalon.law.yale.edu/18th_century/fed47.asp

⁶³ Lindsay M. Chervinsky, “Vietnam War Protests at the White House,” The White House Historical Association, <https://www.whitehousehistory.org/vietnam-war-protests-at-the-white-house>

⁶⁴ Abraham Lincoln, The Gettysburg Address, November 10, 1863, Abraham Lincoln Presidential Library and Museum, <https://presidentlincoln.illinois.gov/exhibits/online-exhibits/gettysburg-address-everett-copy/>

The presidency is unique in that one person stands at the head of a branch of government and directs its operations, as opposed to the other two branches which are made of up multiple members. How Americans keep their government in check was a source of discussion at the constitutional convention and one that has been molded throughout history. That the president is not a king is a key part of the form of government and the individual must work within the established system of separation of powers. The commander-in-chief and head of the executive branch has many unilateral powers at their disposal, both explicitly granted in the constitution and those accumulated by presidents throughout history.

The public is and always has been an important part of this relationship. It acts as a barometer of whether the government, and specifically the president, correctly uses the power granted by the electorate. As such, the public feels a sense of ownership in the government. With the invention of media and technology, the public has more means than ever to be informed about what their government is doing. Any citizen can at any time pull out a device and see what their elected officials are doing with the power granted them.

The purpose of this dissertation is to look further at the interaction between presidential unilateral power and public opinion. Presidents rely on the public to first get elected and come into the office to wield the powers, and then work with Congress to create the political will to implement their agenda. With the power and influence of public opinion, unilateral power has come under greater scrutiny in recent decades. My research here helps us understand how public opinion affects unilateral power.

In the first chapter of this dissertation, I looked at the effect of public opinion on the issuance of a significant unilateral action: the clemency power. The president's approval rating, an important metric of their public support, was analyzed as to whether it affected when presidents issued pardons and commutations. While the effect on that timing was not significant, it did show

that public opinion does matter when looking at unilateral power. I had theorized that the president's public support would affect their singular clemency decisions and whether they should issue one or not. This was not supported, but what was supported was a slightly different angle of public opinion. Presidents were significantly more likely to issue clemency in times after an election and in a lame duck period, after they no longer had to face voters. This shows that presidents do care about public opinion when issuing pardons and communications; they care about the opinion of the electorate and thus wait to really use this unilateral power until after they face the judgment of the electorate.

The results of this chapter help us understand how presidents think about their public standing. Against what I had originally theorized, presidents care more about their legacy and election, big-picture public opinion effects, than they do of their day-to-day approval ratings. Presidents do care about their legacies: they build libraries and foundations to curate that legacy, write books describing their perspective of their decisions in office, and mentor future leaders of the party to carry on the torch. This holds with previous work that shows presidents respond to political rewards, such as elections, to motivate their actions (Lowande 2024). Even though they are in a powerful office, the public still has an important impact on when and how presidents use their unilateral powers, for something as unchecked as the pardon power.

The second chapter analyzed how far people are willing to go along on potential abuses of power by their co-party president, the effect of presidents leading citizens in opinion. This original survey experiment allowed me to look at how people respond to the same uses of unilateral powers by presidents of different parties. People seem to view actions by elected officials through a partisan lens, and what your president does is fine but the opposite-party president doing the same action is seen as a crossing the line. The theory here is that people approve of unilateral action based on the party of the president, and the results of the survey upheld that theorized direction.

This section furthers our understanding by showing that public opinion is dependent on partisanship. If we are counting on public opinion to keep a tyrannical president in check, we need to recognize how partisanship will cloud that phenomenon. If we are looking at potential abuses of power by the executive, that is mediated by party identification. This brings up normative implications about whether we should rely on the public to be an effective guardrail for unilateral powers.

The third chapter also looks at the relationship between presidential elections and public opinion, and how partisanship factors into that calculation. This one also employed original survey questions to gauge how people reacted to the president publicly criticizing the Supreme Court. Traditionally there had been a norm of judicial independence and presidents of all parties had respected its rulings, but in recent decades we have seen presidents willing to break that norm. Here I found, similar to the second chapter, people were willing to side with a president of their own party and side with the Court if it was an out-party president. The party of the president matters in who respondents side within a separation of powers dispute.

This chapter helps us understand more how presidents can use public opinion. In this scenario, presidents are able to bring their co-partisans along in a dispute and could use it to their advantage. Partisans seem to mostly be willing to follow a president of their own party in such a direction and also violate the norm of judicial independence. While presidents have not historically picked fights with the highest court in the land, more recent presidents have. We may see more of this and have presidents use the power of their rhetoric to bring their partisans along with them.

Overall, this body of work sheds light on the relationship between the president's use of unilateral action and the public's reaction to it. It is from a multifield perspective—presidential studies, public opinion, judicial studies—increasing scholarship across multiple dimensions. This work brings us to some conclusions, firstly that the president does care about public opinion and

what it means for their support among the public. Such public standing is important for their political capital and the progress of their agenda. We see that presidents care about their election and legacy (Howell 2013) and that guides some of their decision-making around when to use unilateral power. We also see how partisanship plays into the how citizens evaluate that unilateral power, and the power presidents have to persuade and lead the opinion of members of their own party.

Yet in our current polarized political environment, can the public really check the president? And how much can the president actually achieve and cut through the noise? This partisanship is an important factor, as many are becoming motivated by the opposite-party president rather than their co-party president via the phenomenon of negative partisanship (Bankert 2021, 2022). The president is an important communicator in our political system and they are also an influential figurehead for their political party. We know that messages from co-partisans can move opinion (Bonilla 2024; Peterson 2019), thus when the president speaks, he or she can expect to have their co-partisans persuaded to their position. We are in an era of hyper-partisanship, with everything viewed through the lens of what is good for one's own party and damaging for the opposite party. This dissertation helps us understand how the president operates within that hyper-partisan environment.

The fact that the president has many unilateral actions at their disposal that do not have any formal checks on those powers might cause some to worry about the state of our democracy. As my results help show, the informal check of public opinion might not be the guardrail as some had thought, particularly due to the “pull” of partisanship. Should we be worried about the ability to check a president misusing their powers beyond the scope of the constitution? In his recent book *False Front* (2024), political scientist Kenneth Lowande writes that although presidents have unilateral solutions, they are often weak and empty. These are symbolic rather than substantive actions to show the country that they are in charge and directing the country in a clear direction. Presidents pursue these actions even when they know they will fail, with the purpose of proving to the

electorate they are working for them. This might give some people a sense of comfort, yet we have seen scholars already proclaiming a constitutional crisis⁶⁵ only a few months into the second Trump administration. How the presidency and the public interact as we move into the second half of this decade remains to be seen, but will certainly be fascinating to political scientists like me.

This has been an intriguing project to work on and has been motivated by my fascination with presidential unilateral power. Actions such as pardons, which have little to no checks, are a powerful tool in the hands of the president. We see that recent presidents have used pardons as more of a political tool rather than the act of mercy the founders intended. How they wield it shows a lot about their view of presidential power and what they want to accomplish while holding that authority. As a child I was intrigued by the office of the presidency and the awesome powers the holder of that office could wield, which led me to research this topic. I hope to have contributed to the understanding of presidential power with this work and will continue to investigate how presidents use their powers and how the public reacts. If the most recent few presidents are anything to go by, I will have plenty to research for years to come.

⁶⁵ Adam Liptak, “Trump’s Actions Have Created a Constitutional Crisis, Scholars Say,” *The New York Times*, February 10, 2025, <https://www.nytimes.com/2025/02/10/us/politics/trump-constitutional-crisis.html>

REFERENCES

- Aberbach, Joel D., Mark A. Peterson, and Paul J. Quirk. 2007. "The Contemporary Presidency: Who Wants Presidential Supremacy? Findings from the Institutions of American Democracy Project." *Presidential Studies Quarterly* 37(3): 515–30. doi:10.1111/j.1741-5705.2007.02609.x.
- Abramowitz, Alan I. 1996. "Bill and Al's Excellent Adventure: Forecasting the 1996 Presidential Election." *American Politics Quarterly* 24(4): 434–42. doi:10.1177/1532673X9602400403.
- Abramowitz, Alan I. 2016. "Will Time for Change Mean Time for Trump?" *PS: Political Science & Politics* 49(04): 659–60. doi:10.1017/S1049096516001268.
- Abramowitz, Alan I., and Steven Webster. 2016. "The Rise of Negative Partisanship and the Nationalization of U.S. Elections in the 21st Century." *Electoral Studies* 41: 12–22. doi:10.1016/j.electstud.2015.11.001.
- Alford, John R., Carolyn L. Funk, and John R. Hibbing. 2005. "Are Political Orientations Genetically Transmitted?" *American Political Science Review* 99(2): 153–67.
- Amar, Akhil Reed, and Brian C. Kalt. 1997. "The Presidential Privilege against Prosecution." *Nexus: A Journal of Opinion* 2: 11.
- Ang, Zoe, Andrew Reeves, Jon C. Rogowski, and Arjun Vishwanath. 2022. "Partisanship, Economic Assessments, and Presidential Accountability." *American Journal of Political Science* 66(2): 468–84. doi:10.1111/ajps.12659.
- Bafumi, Joseph, and Robert Y. Shapiro. 2009. "A New Partisan Voter." *The Journal of Politics* 71(1): 1–24. doi:10.1017/S0022381608090014.
- Bail, Christopher A., Lisa P. Argyle, Taylor W. Brown, John P. Bumpus, Haohan Chen, M. B. Fallin Hunzaker, Jaemin Lee, et al. 2018. "Exposure to Opposing Views on Social Media Can Increase Political Polarization." *Proceedings of the National Academy of Sciences* 115(37): 9216–21. doi:10.1073/pnas.1804840115.
- Bakshy, Eytan, Solomon Messing, and Lada A. Adamic. 2015. "Exposure to Ideologically Diverse News and Opinion on Facebook." *Science* 348(6239): 1130–32. doi:10.1126/science.aaa1160.
- Banda, Kevin K., and John Cluverius. 2018. "Elite Polarization, Party Extremity, and Affective Polarization." *Electoral Studies* 56: 90–101.
- Bankert, Alexa. 2021. "Negative and Positive Partisanship in the 2016 U.S. Presidential Elections." *Political Behavior* 43(4): 1467–85. doi:10.1007/s11109-020-09599-1.
- Bankert, Alexa. 2022. "Negative Partisanship among Independents in the 2020 U.S. Presidential Elections." *Electoral Studies* 78: 102490. doi:10.1016/j.electstud.2022.102490.

- Barrett, Andrew W., and Matthew Eshbaugh-Soha. 2007. "Presidential Success on the Substance of Legislation." *Political Research Quarterly* 60(1): 100–112. doi:10.1177/1065912906298605.
- Bartels, Brandon L., and Eric Kramon. 2022. "All the President's Justices? The Impact of Presidential Copartisanship on Supreme Court Job Approval." *American Journal of Political Science* 66(1): 171–86. doi:10.1111/ajps.12617.
- Basler, Roy P., ed. 1953. 2 *The Collected Works of Abraham Lincoln*. New Brunswick, NJ: Rutgers University Press.
- Baum, Matthew A., and Tim Groeling. 2008. "New Media and the Polarization of American Political Discourse." *Political Communication* 25(4): 345–65. doi:10.1080/10584600802426965.
- Berry, Jeffrey M., and Sarah Sobieraj. 2014. *The Outrage Industry: Political Opinion Media and the New Incivility*. Oxford: Oxford University Press.
- Bertaut, Jules. 1916. *Napoleon in His Own Words*. Chicago: A.C. McClurg.
- Bettarelli, Luca, Caroline Close, and Emilie Van Haute. 2022. "Is Protest Only Negative? Examining the Effect of Emotions and Affective Polarization on Protest Behaviour." *Politics and Governance* 10(4). doi:10.17645/pag.v10i4.5665.
- Blackstone, Bethany, and Greg Goelzhauser. 2019. "Congressional Responses to the Supreme Court's Constitutional and Statutory Decisions." *Justice System Journal* 40(2): 91–109.
- Bolsen, Toby, James N. Druckman, and Fay Lomax Cook. 2014. "The Influence of Partisan Motivated Reasoning on Public Opinion." *Political Behavior* 36(2): 235–62. doi:10.1007/s11109-013-9238-0.
- Bolton, Alexander, and Sharece Thrower. 2016. "Legislative Capacity and Executive Unilateralism." *American Journal of Political Science* 60(3): 649–63. doi:10.1111/ajps.12190.
- Bond, John R., Richard Fleisher, and B. Dan Wood. 2003. "The Marginal and Time-Varying Effect of Public Approval on Presidential Success in Congress." *The Journal of Politics* 65(1): 92–110.
- Bonilla, Tabitha. 2024. "The Influence of Partisanship on Assessments of Promise Fulfillment and Accountability." *American Political Science Review*: 1–19. doi:10.1017/S0003055424000807.
- Bougher, Lori D. 2017. "The Correlates of Discord: Identity, Issue Alignment, and Political Hostility in Polarized America." *Political Behavior* 39(3): 731–62. doi:10.1007/s11109-016-9377-1.
- Boxell, Levi, Matthew Gentzkow, and Jesse M. Shapiro. 2024. "Cross-Country Trends in Affective Polarization." *Review of Economics and Statistics* 106(2): 557–65. doi:10.1162/rest_a_01160.
- Brace, Paul, and Barbara Hinckley. 1991. "The Structure of Presidential Approval: Constraints within and across Presidencies." *The Journal of Politics* 53(4): 993–1017. doi:10.2307/2131864.
- Braman, Eileen. 2016. "Exploring Citizen Assessments of Unilateral Executive Authority." *Law & Society Review* 50(1): 189–223. doi:10.1111/lasr.12180.

- Brody, R.A. 1991. *Assessing the President: The Media, Elite Opinion, and Public Support*. Stanford: Stanford University Press.
- Brown, Rebecca L., and Lee Epstein. 2023. "Is the US Supreme Court a Reliable Backstop for an Overreaching US President? Maybe, but Is an Overreaching (Partisan) Court Worse?" *Presidential Studies Quarterly* 53(2): 234–55. doi:10.1111/psq.12831.
- Busby, Ethan C., James N. Druckman, and Alexandria Fredendall. 2017. "The Political Relevance of Irrelevant Events." *The Journal of Politics* 79(1): 346–50. doi:10.1086/688585.
- Calabresi, Steven G. 1999. "Caesarism, Departmentalism, and Professor Paulsen." *Minnesota Law Review* 83: 1421–27.
- Caldeira, Gregory A., and James L. Gibson. 1992. "The Etiology of Public Support for the Supreme Court." *American Journal of Political Science* 36(3): 635–64. doi:10.2307/2111585.
- Cameron, Charles M. 2000. *Veto Bargaining: Presidents and the Politics of Negative Power*. Cambridge: Cambridge University Press.
- Campbell, Angus, Phillip E. Converse, Warren E. Miller, and Donald Stokes. 1960. *The American Voter*. Unabridged edition. New York: Wiley.
- Campbell, James E. 1997. *The Presidential Pulse of Congressional Elections*. Lexington: University Press of Kentucky.
- Campbell, James E. 2016. "The Trial-Heat and Seats-in-Trouble Forecasts of the 2016 Presidential and Congressional Elections." *PS: Political Science & Politics* 49(04): 664–68. doi:10.1017/S104909651600127X.
- Canes-Wrone, Brandice. 2006. *Who Leads Whom? Presidents, Policy, and the Public*. Chicago: University of Chicago Press.
- Canes-Wrone, Brandice, and Scott de Marchi. 2002. "Presidential Approval and Legislative Success." *The Journal of Politics* 64(2): 491–509.
- Carrubba, Clifford J., and Christopher Zorn. 2010. "Executive Discretion, Judicial Decision Making, and Separation of Powers in the United States." *The Journal of Politics* 72(3): 812–24. doi:10.1017/S0022381610000186.
- Carson, Jamie L., Joel Sievert, and Ryan D. Williamson. 2023. *Nationalized Politics: Evaluating Electoral Politics Across Time*. Oxford: Oxford University Press.
- Casillas, Christopher J., Peter K. Enns, and Patrick C. Wohlfarth. 2011. "How Public Opinion Constrains the U.S. Supreme Court." *American Journal of Political Science* 55(1): 74–88.
- Christenson, Dino P., and Douglas L. Kriner. 2020a. *The Myth of the Imperial Presidency: How Public Opinion Checks the Unilateral Executive*. Chicago: University of Chicago Press.

- Cinelli, Matteo, Gianmarco De Francisci Morales, Alessandro Galeazzi, Walter Quattrociocchi, and Michele Starnini. 2021. "The Echo Chamber Effect on Social Media." *Proceedings of the National Academy of Sciences* 118(9): e2023301118. doi:10.1073/pnas.2023301118.
- Cohen, Jeffrey E. 1995. "Presidential Rhetoric and the Public Agenda." *American Journal of Political Science* 39(1): 87–107. doi:10.2307/2111759.
- Cohen, Jeffrey E. 1997. *Presidential Responsiveness and Public Policy-Making*. Ann Arbor: University of Michigan Press.
- Cohen, Jeffrey E. 2010. *Going Local: Presidential Leadership in the Post-Broadcast Age*. Cambridge: Cambridge University Press.
- Cohen, Jeffrey E. 2013. "Everybody Loves a Winner: On the Mutual Causality of Presidential Approval and Success in Congress." *Congress & the Presidency* 40(3): 285–307. doi:10.1080/07343469.2013.829891.
- Collins, Eliza. 2016. "Poll: Clinton, Trump Most Unfavorable Candidates Ever." *USA TODAY*. <https://www.usatoday.com/story/news/politics/onpolitics/2016/08/31/poll-clinton-trump-most-unfavorable-candidates-ever/89644296/> (December 11, 2023).
- Collins, Jr., Paul M., and Matthew Eshbaugh-Soha. 2019. *The President and the Supreme Court: Going Public on Judicial Decisions from Washington to Trump*. Cambridge: Cambridge University Press.
- Collins, Paul M., Jr., and Matthew Eshbaugh-Soha. 2022. "The Supreme Court, the President, and Congress: Lawmaking in a Separation-of-Powers System." *Journal of Law and Courts* 10(2): 213–37. doi:10.1086/715694.
- Cottrell, David, Michael C. Herron, and Sean J. Westwood. 2018. "An Exploration of Donald Trump's Allegations of Massive Voter Fraud in the 2016 General Election." *Electoral Studies* 51: 123–42. doi:10.1016/j.electstud.2017.09.002.
- Cottrell, David, Charles R. Shipan, and Richard J. Anderson. 2019. "The Power to Appoint: Presidential Nominations and Change on the Supreme Court." *The Journal of Politics* 81(3): 1057–68. doi:10.1086/703382.
- Crouch, Jeffrey. 2009. *The Presidential Pardon Power*. Lawrence, Kansas: University Press of Kansas.
- Curry, Brett W., Richard L. Pacelle, and Bryan W. Marshall. 2008. "'An Informal and Limited Alliance': The President and the Supreme Court." *Presidential Studies Quarterly* 38(2): 223–47.
- Daniel, Clifton. 1974. "Ford's Gallup Rating Off 21 Points After Pardon." *The New York Times*. <https://www.nytimes.com/1974/10/13/archives/fords-gallup-rating-off-21-points-after-pardon-unexpected-wounds.html> (October 12, 2018).
- Deering, Christopher J., and Forrest Maltzman. 1999. "The Politics of Executive Orders: Legislative Constraints on Presidential Power." *Political Research Quarterly* 52(4): 767–83. doi:10.1177/106591299905200405.

- Delli Carpini, Michael X., and Scott Keeter. 1996. *What Americans Know about Politics and Why It Matters*. New Haven, CT: Yale University Press.
- Donovan, Kathleen, Paul M. Kellstedt, Ellen M. Key, and Matthew J. Lebo. 2020. "Motivated Reasoning, Public Opinion, and Presidential Approval." *Political Behavior* 42(4): 1201–21. doi:10.1007/s11109-019-09539-8.
- Donovan, Kathleen M., Paul Kellstedt, Ellen M. Key, and Matthew J. Lebo. 2023. "Weakened Ties: The Economy and Presidential Approval in the 21st Century United States." In *Economics and Politics Revisited: Executive Approval and the New Calculus of Support*, Oxford: Oxford University Press.
- Druckman, James N., Samara Klar, Yanna Krupnikov, Matthew Levendusky, and John Barry Ryan. 2021. "Affective Polarization, Local Contexts and Public Opinion in America." *Nature Human Behaviour* 5(1): 28–38. doi:10.1038/s41562-020-01012-5.
- Druckman, James N., Erik Peterson, and Rune Slothuus. 2013. "How Elite Partisan Polarization Affects Public Opinion Formation." *American Political Science Review* 107(1): 57–79. doi:10.1017/S0003055412000500.
- Drutman, Lee. 2020. *Breaking the Two-Party Doom Loop: The Case for Multiparty Democracy in America*. Oxford: Oxford University Press.
- Dryzek, John S., André Bächtiger, Simone Chambers, Joshua Cohen, James N. Druckman, Andrea Felicetti, James S. Fishkin, et al. 2019. "The Crisis of Democracy and the Science of Deliberation." *Science* 363(6432): 1144–46. doi:10.1126/science.aaw2694.
- Ducat, Craig R., and Robert L. Dudley. 1989. "Federal District Judges and Presidential Power During the Postwar Era." *The Journal of Politics* 51(1): 98–118. doi:10.2307/2131611.
- Edwards, George C. 2003. *On Deaf Ears: The Limits of the Bully Pulpit*. New Haven, CT: Yale University Press.
- Edwards, George C., William Mitchell, and Reed Welch. 1995. "Explaining Presidential Approval: The Significance of Issue Salience." *American Journal of Political Science* 39(1): 108–34. doi:10.2307/2111760.
- Edwards III, George C. 2016. *Predicting the Presidency: The Potential of Persuasive Leadership*. Princeton: Princeton University Press.
- Epstein, Lee, and Jack Knight. 1998. *The Choices Justices Make*. Washington, D.C.: CQ Press.
- Epstein, Lee, and Eric A. Posner. 2016. "Supreme Court Justices' Loyalty to the President." *The Journal of Legal Studies* 45(2): 401–36. doi:10.1086/688395.
- Epstein, Lee, and Eric A. Posner. 2018. "The Decline of Supreme Court Deference to the President." *University of Pennsylvania Law Review* 166(4): 829–60.

- Finkel, Eli J., Christopher A. Bail, Mina Cikara, Peter H. Ditto, Shanto Iyengar, Samara Klar, Lilliana Mason, et al. 2020. "Political Sectarianism in America." *Science* 370(6516): 533–36. doi:10.1126/science.abe1715.
- Frimer, Jeremy A., Linda J. Skitka, and Matt Motyl. 2017. "Liberals and Conservatives Are Similarly Motivated to Avoid Exposure to One Another's Opinions." *Journal of Experimental Social Psychology* 72: 1–12. doi:10.1016/j.jesp.2017.04.003.
- Gaertner, Samuel L., John F. Dovidio, Phyllis A. Anastasio, Betty A. Bachman, and Mary C. Rust. 1993. "The Common Ingroup Identity Model: Recategorization and the Reduction of Intergroup Bias." *European Review of Social Psychology* 4(1): 1–26. doi:10.1080/14792779343000004.
- Gardner, Paul J., and Sharece Thrower. 2023. "Presidential Constraints on Supreme Court Decision-Making." *The Journal of Politics* 85(1): 139–52. doi:10.1086/720648.
- Gibson, James L. 2007. "The Legitimacy of the U.S. Supreme Court in a Polarized Polity." *Journal of Empirical Legal Studies* 4(3): 507–38. doi:10.1111/j.1740-1461.2007.00098.x.
- Gibson, James L. 2025. "Do the Effects of Unpopular Supreme Court Rulings Linger? The *Dobbs* Decision Rescinding Abortion Rights." *American Political Science Review* 119(1): 500–507. doi:10.1017/S0003055424000169.
- Gibson, James L., and Gregory A. Caldeira. 2009. *Citizens, Courts, and Confirmations: Positivity Theory and the Judgements of the American People*. Princeton, New Jersey: Princeton University Press.
- Gillen, Craig A. 1998. "The Weinberger Pardon: A Blow to American Justice." *Journal of Financial Crime* 6: 7.
- Gillman, Howard. 2002. "How Political Parties Can Use the Courts to Advance Their Agendas: Federal Courts in the United States, 1875–1891." *American Political Science Review* 96(3): 511–24. doi:10.1017/S0003055402000291.
- Gimpel, James, and Iris Hui. 2015. "Seeking Politically Compatible Neighbors? The Role of Neighborhood Partisan Composition in Residential Sorting." *Political Geography* 48: 130–42. doi:10.1016/j.polgeo.2014.11.003.
- Graber, Doris. 1997. *Mass Media and American Politics*. Washington, D.C.: Congressional Quarterly Press.
- Graham, Matthew H., and Milan W. Svolik. 2020. "Democracy in America? Partisanship, Polarization, and the Robustness of Support for Democracy in the United States." *American Political Science Review* 114(2): 392–409.
- Green, Donald, Bradley Palmquist, and Eric Schickler. 2004. *Partisan Hearts and Minds: Political Parties and the Social Identities of Voters*. New Haven, CT: Yale University Press.
- Greenberg, David. 2011. "Beyond the Bully Pulpit." *The Wilson Quarterly* (1976-) 35(3): 22–29.

- Greenstein, Fred. 1965. *Children and Politics*. New Haven: Yale University Press.
- Gronke, Paul, and Brian Newman. 2003. "FDR to Clinton, Mueller to ?: A Field Essay on Presidential Approval." *Political Research Quarterly* 56(4): 501–12.
- Haidt, Jonathan, and Marc J. Hetherington. 2012. "Look How Far We've Come Apart." *New York Times*. <https://archive.nytimes.com/campaignstops.blogs.nytimes.com/2012/09/17/look-how-far-weve-come-apart/>.
- Hansford, Thomas G., and David F. Damore. 2000. "Congressional Preferences, Perceptions of Threat, and Supreme Court Decision Making." *American Politics Quarterly* 28(4): 490–510. doi:10.1177/1532673X00028004003.
- Harvey, Anna, and Barry Friedman. 2006. "Pulling Punches: Congressional Constraints on the Supreme Court's Constitutional Rulings, 1987–2000." *Legislative Studies Quarterly* 31(4): 533–62. doi:10.3162/036298006X201922.
- Hatemi, Peter K., John R. Alford, John R. Hibbing, Nicholas G. Martin, and Lindon J. Eaves. 2009. "Is There a 'Party' in Your Genes?" *Political Research Quarterly* 62(3): 584–600. doi:10.1177/1065912908327606.
- Healy, A. J., N. Malhotra, and C. H. Mo. 2010. "Irrelevant Events Affect Voters' Evaluations of Government Performance." *Proceedings of the National Academy of Sciences* 107(29): 12804–9. doi:10.1073/pnas.1007420107.
- Hibbing, John R., and Elizabeth Theiss-Morse. 1996. *Congress as Public Enemy*. Cambridge: Cambridge University Press.
- Hibbs, Douglas A. 2000. "Bread and Peace Voting in U.S. Presidential Elections." *Public Choice* 104(1): 149–80.
- Hoekstra, Valerie J. 1995. "The Supreme Court and Opinion Change: An Experimental Study of the Court's Ability to Change Opinion." *American Politics Quarterly* 23(1): 109–29. doi:10.1177/1532673X9502300106.
- Hogg, Michael A. 2001. "A Social Identity Theory of Leadership." *Personality and Social Psychology Review* 5(3): 184–200. doi:10.1207/S15327957PSPR0503_1.
- Hopkins, Daniel J. 2018. *The Increasingly United States: How and Why American Political Behavior Nationalized*. Chicago: University of Chicago Press.
- Howell, William G. 2003. *Power Without Persuasion: The Politics of Direct Presidential Action*. Princeton: Princeton University Press.
- Howell, William G. 2013. *Thinking about the Presidency: The Primacy of Power*. Princeton, New Jersey: Princeton University Press.
- Howell, William G., and Terry M. Moe. 2020. *Presidents, Populism, and the Crisis of Democracy*. Chicago: University of Chicago Press.

- Huddy, Leonie, Lilliana Mason, and Lene Aarøe. 2015. "Expressive Partisanship: Campaign Involvement, Political Emotion, and Partisan Identity." *American Political Science Review* 109(1): 1–17.
- Huddy, Leonie, and Omer Yair. 2021. "Reducing Affective Polarization: Warm Group Relations or Policy Compromise?" *Political Psychology* 42(2): 291–309. doi:10.1111/pops.12699.
- Iyengar, Shanto, Yphtach Lelkes, Matthew Levendusky, Neil Malhotra, and Sean J. Westwood. 2019. "The Origins and Consequences of Affective Polarization in the United States." *Annual Review of Political Science* 22: 129–46.
- Iyengar, Shanto, Gaurav Sood, and Yphtach Lelkes. 2012. "Affect, Not Ideology: A Social Identity Perspective on Polarization." *Public Opinion Quarterly* 76(3): 405–31. doi:10.1093/poq/nfs038.
- Iyengar, Shanto, and Sean J. Westwood. 2015. "Fear and Loathing across Party Lines: New Evidence on Group Polarization." *American Journal of Political Science* 59(3): 690–707. doi:10.1111/ajps.12152.
- Johnsen, Dawn E. 2000. "Presidential Non-Enforcement of Constitutionally Objectionable Statues." *Law and Contemporary Problems* 63(1 & 2): 7–60.
- Johnson, Gbemende. 2015. "Executive Power and Judicial Deference: Judicial Decision Making on Executive Power Challenges in the American States." *Political Research Quarterly* 68(1): 128–41. doi:10.1177/1065912914561798.
- Jones, David R. 2001. "Party Polarization and Legislative Gridlock." *Political Research Quarterly* 54(1): 125–41. doi:10.1177/106591290105400107.
- Jurkowitz, Mark, Amy Mitchell, and Mason Walker. 2020. "U.S. Media Polarization and the 2020 Election: A Nation Divided." *Pew Research Center's Journalism Project*. <https://www.pewresearch.org/journalism/2020/01/24/u-s-media-polarization-and-the-2020-election-a-nation-divided/> (April 11, 2024).
- Kam, Cindy D., and Jennifer M. Ramos. 2008. "Joining and Leaving the Rally: Understanding the Surge and Decline in Presidential Approval Following 9/11." *Public Opinion Quarterly* 72(4): 619–50. doi:10.1093/poq/nfn055.
- Kaufman, Aaron R, and Jon C Rogowski. 2018. "The Unilateral Presidency, 1933–2017." : 58.
- Kernell, Samuel. 1977. "Presidential Popularity and Negative Voting: An Alternative Explanation of the Midterm Congressional Decline of the President's Party." *The American Political Science Review* 71(1): 44–66. doi:10.2307/1956953.
- Kernell, Samuel. 1978. "Explaining Presidential Popularity. How Ad Hoc Theorizing, Misplaced Emphasis, and Insufficient Care in Measuring One's Variables Refuted Common Sense and Led Conventional Wisdom Down the Path of Anomalies." *The American Political Science Review* 72(2): 506–22. doi:10.2307/1954107.

- Kernell, Samuel. 2007. *Going Public: New Strategies of Presidential Leadership*. 4th ed. Washington, D.C.: CQ Press.
- Kingzette, Jon, James N Druckman, Samara Klar, Yanna Krupnikov, Matthew Levendusky, and John Barry Ryan. 2021. "How Affective Polarization Undermines Support for Democratic Norms." *Public Opinion Quarterly* 85(2): 663–77. doi:10.1093/poq/nfab029.
- Krause, George A., and Jeffrey E. Cohen. 2000. "Opportunity, Constraints, and the Development of the Institutional Presidency: The Issuance of Executive Orders, 1939–96." *The Journal of Politics* 62(1): 88–114.
- Krehbiel, Keith. 1998. *Pivotal Politics: A Theory of U.S. Lawmaking*. Chicago: University of Chicago Press.
- Krent, Harold J. 2005. *Presidential Power*. New York: New York University Press.
- Kriner, Douglas L., and Andrew Reeves. 2014. "Responsive Partisanship: Public Support for the Clinton and Obama Health Care Plans." *Journal of Health Politics, Policy and Law* 39(4): 717–49. doi:10.1215/03616878-2743015.
- Krosnick, Jon A., and Donald R. Kinder. 1990. "Altering the Foundations of Support for the President Through Priming." *The American Political Science Review* 84(2): 497–512. doi:10.2307/1963531.
- Kunda, Ziva. 1999. *Social Cognition: Making Sense of People*. Cambridge, Massachusetts: MIT Press.
- Lee, Frances E. 2015. "How Party Polarization Affects Governance." *Annual Review of Political Science* 18(1): 261–82. doi:10.1146/annurev-polisci-072012-113747.
- Lee, Frances E. 2016. *Insecure Majorities: Congress and the Perpetual Campaign*. Chicago: University of Chicago Press.
- Lelkes, Yphtach. 2018. "Affective Polarization and Ideological Sorting: A Reciprocal, Albeit Weak, Relationship." *The Forum* 16(1): 67–79. doi:10.1515/for-2018-0005.
- Lelkes, Yphtach, Gaurav Sood, and Shanto Iyengar. 2017. "The Hostile Audience: The Effect of Access to Broadband Internet on Partisan Affect." *American Journal of Political Science* 61(1): 5–20. doi:10.1111/ajps.12237.
- Lelkes, Yphtach, and Sean J. Westwood. 2017. "The Limits of Partisan Prejudice." *The Journal of Politics* 79(2): 485–501. doi:10.1086/688223.
- Levendusky, Matthew. 2013. "Partisan Media Exposure and Attitudes Toward the Opposition." *Political Communication* 30(4): 565–81. doi:10.1080/10584609.2012.737435.
- Levendusky, Matthew S. 2009. *The Partisan Sort: How Liberals Became Democrats and Conservatives Became Republicans*. Chicago: University of Chicago Press.

- Levendusky, Matthew S., and Neil Malhotra. 2016. "(Mis)Perceptions of Partisan Polarization in the American Public." *Public Opinion Quarterly* 80(S1): 378–91. doi:10.1093/poq/nfv045.
- Lipset, Seymour M., and Stein Rokkan. 1967. *Party Systems and Voter Alignments: Cross-National Perspectives*. Toronto: Free Press.
- Lovett, John, Shaun Bevan, and Frank R. Baumgartner. 2015. "Popular Presidents Can Affect Congressional Attention, for a Little While: Presidents Can Affect Congressional Attention." *Policy Studies Journal* 43(1): 22–43. doi:10.1111/psj.12087.
- Lowande, Kenneth. 2024. *False Front: The Failed Promise of Presidential Power in a Polarized Age*. Chicago: University of Chicago Press.
- Martherus, James L., Andres G. Martinez, Paul K. Piff, and Alexander G. Theodoridis. 2021. "Party Animals? Extreme Partisan Polarization and Dehumanization." *Political Behavior* 43(2): 517–40. doi:10.1007/s11109-019-09559-4.
- Martin, Andrew D. 2001. "Congressional Decision Making and the Separation of Powers." *American Political Science Review* 95(2).
- Mason, Lilliana. 2018. *Uncivil Agreement: How Politics Became Our Identity*. Chicago: University of Chicago Press.
- Mayer, Kenneth R., and Kevin Price. 2002. "Unilateral Presidential Powers: Significant Executive Orders, 1949-99." *Presidential Studies Quarterly* 32(2): 367–86. doi:https://doi.org/10.1111/j.0360-4918.2002.00225.x.
- Mayhew, David. 1974. *Congress: The Electoral Connection*. New Haven, CT: Yale University Press.
- McCoy, Jennifer, Tahmina Rahman, and Murat Somer. 2018. "Polarization and the Global Crisis of Democracy: Common Patterns, Dynamics, and Pernicious Consequences for Democratic Politics." *American Behavioral Scientist* 62(1): 16–42. doi:10.1177/0002764218759576.
- Meernik, James, and Joseph Ignagni. 1997. "Judicial Review and Coordinate Construction of the Constitution." *American Journal of Political Science* 41(2): 447–67. doi:10.2307/2111772.
- Miles, Matthew R. 2014. "The Bully Pulpit and Media Coverage: Power without Persuasion." *The International Journal of Press/Politics* 19(1): 66–84. doi:10.1177/1940161213507608.
- Miller, Patrick R., and Pamela Johnston Conover. 2015. "Red and Blue States of Mind: Partisan Hostility and Voting in the United States." *Political Research Quarterly* 68(2): 225–39. doi:10.1177/1065912915577208.
- Moe, T. M., and W. G. Howell. 1999. "The Presidential Power of Unilateral Action." *The Journal of Law, Economics, and Organization* 15(1): 132–79. doi:10.1093/jleo/15.1.132.
- Montgomery, Matthew D., and Natalie C. Rogol. 2023. "How Low Can We Go: Court Approval Effects on Public Opinion." *Social Science Quarterly* 104(5): 1154–69. doi:10.1111/ssqu.13305.

- Montgomery, Matthew D., Natalie C. Rogol, and Anna McCaghren Fleming. 2024. "Executives Strike Back: Political Benefits of Sanctioning the U.S. Supreme Court." *Journal of Law and Courts* 12(2): 275–302. doi:10.1017/jlc.2024.10.
- Montgomery, Matthew D., Natalie C. Rogol, and Justin T. Kingsland. 2019. "Presidential Rhetoric and U.S. Supreme Court Rulings: The Effect of Going Public on Citizen Evaluations of Institutions and Policy." *Presidential Studies Quarterly* 49(4): 870–97. doi:10.1111/psq.12596.
- Mueller, John E. 1970. "Presidential Popularity from Truman to Johnson." *The American Political Science Review* 64(1): 18–34. doi:10.2307/1955610.
- Mueller, John E. 1973. *War, Presidents, and Public Opinion*. New York: Wiley.
- Munro, Geoffrey D., Carrie Weih, and Jeffrey Tsai. 2010. "Motivated Suspicion: Asymmetrical Attributions of the Behavior of Political Ingroup and Outgroup Members." *Basic and Applied Social Psychology* 32(2): 173–84. doi:10.1080/01973531003738551.
- Mutz, Diana C., and Byron Reeves. 2005. "The New Videomalaise: Effects of Televised Incivility on Political Trust." *American Political Science Review* 99(1): 1–15.
- Neustadt, Richard E. 1960. *Presidential Power and the Modern Presidents: The Politics of Leadership from Roosevelt to Reagan*. New York, N.Y.: The Free Press.
- Newman, Brian, and Amber Otto. 2021. "Polls and Elections: The Economy and Events Still Matter (At Least a Little): Partisans' Presidential Approval in the Trump Era." *Presidential Studies Quarterly* 52(1): 208–23. doi:10.1111/psq.12686.
- Newport, Frank. 2021. "Measuring Presidential Job Approval for 75 Years." *Gallup.com*. <https://news.gallup.com/opinion/polling-matters/352739/measuring-presidential-job-approval-years.aspx> (December 7, 2021).
- Newport, Frank, and Lydia Saad. 2021. "Review: Presidential Job Approval." *Public Opinion Quarterly* 85(1): 223–41. doi:10.1093/poq/nfaa061.
- Nicholson, Stephen P. 2012. "Polarizing Cues." *American Journal of Political Science* 56(1): 52–66. doi:10.1111/j.1540-5907.2011.00541.x.
- Nicholson, Stephen P., Gary M. Segura, and Nathan D. Woods. 2002. "Presidential Approval and the Mixed Blessing of Divided Government." *Journal of Politics* 64(3): 701–20. doi:10.1111/0022-3816.00142.
- Orhan, Yunus Emre. 2022. "The Relationship between Affective Polarization and Democratic Backsliding: Comparative Evidence." *Democratization* 29(4): 714–35. doi:10.1080/13510347.2021.2008912.
- Page, Benjamin I., and Robert Y. Shapiro. 1985. "Presidential Leadership through Public Opinion." In *The Presidency and Public Policy Making*, eds. George C. Edwards III, Steven A. Shull, and Norman C. Thomas. Pittsburgh: University of Pittsburgh Press.

- Peterson, Erik. 2019. "The Scope of Partisan Influence on Policy Opinion." *Political Psychology* 40(2): 335–53. doi:10.1111/pops.12495.
- Ponder, Daniel E. 2017. *Presidential Leverage: Presidents, Approval, and the American State*. Redwood City, CA: Stanford University Press.
- Popkin, Samuel L. 1994. *The Reasoning Voter: Communication and Persuasion in Presidential Campaigns*. Chicago: University of Chicago Press.
- Potter, Rachel Augustine, and Charles R. Shipan. 2019. "Agency Rulemaking in a Separation of Powers System." *Journal of Public Policy* 39(1): 89–113.
- Prakash, Saikrishna, and John Yoo. 2005. "Against Interpretive Supremacy." *Michigan Law Review* 103: 1539–63.
- Puglisi, Riccardo, and James M. Snyder. 2011. "Newspaper Coverage of Political Scandals." *The Journal of Politics* 73(3): 931–50. doi:10.1017/S0022381611000569.
- Ragsdale, Lyn, and John Theis. 1997. "The Institutionalization of the American Presidency, 1924–92." *American Journal of Political Science* 41(4): 1280–1318.
- Redish, Martin H. 1995. "Federal Judicial Independence: Constitutional and Political Perspectives." *Mercer Law Review* 46(2): 697–732.
- Reeves, Andrew, and Jon C. Rogowski. 2015. "Public Opinion Toward Presidential Power." *Presidential Studies Quarterly* 45(4): 742–59. doi:10.1111/psq.12227.
- Reeves, Andrew, and Jon C. Rogowski. 2016. "Unilateral Powers, Public Opinion, and the Presidency." *The Journal of Politics* 78(1): 137–51. doi:10.1086/683433.
- Reeves, Andrew, and Jon C. Rogowski. 2022. *No Blank Check: The Origins and Consequences of Public Antipathy towards Presidential Power*. Cambridge: Cambridge University Press.
- Rivers, Douglas, and Nancy L. Rose. 1985. "Passing the President's Program: Public Opinion and Presidential Influence in Congress." *American Journal of Political Science* 29(2): 183–96. doi:10.2307/2111162.
- Robinson, Michael J., and Kevin R. Appel. 1979. "Network News Coverage of Congress." *Political Science Quarterly* 94(3): 407–18. doi:10.2307/2150450.
- Rogol, Natalie C., Matthew D. Montgomery, and Justin T. Kingsland. 2018. "Going Public: Presidential Impact on Supreme Court Decision-Making." *The Justice System Journal* 39(3): 210–27.
- Rogowski, Jon C., and Joseph L. Sutherland. 2016. "How Ideology Fuels Affective Polarization." *Political Behavior* 38(2): 485–508. doi:10.1007/s11109-015-9323-7.
- Rottinghaus, Brandon. 2006. "Rethinking Presidential Responsiveness: The Public Presidency and Rhetorical Congruency, 1952–2001." *Journal of Politics* 68(3): 720–32.

- Ruckman, P. S. 2008. "Seasonal Clemency Revisited: An Empirical Analysis." *White House Studies* 11(21). <https://papers.ssrn.com/abstract=2214495> (July 3, 2019).
- Ruckman, P. S., Jr. 1997. "Executive Clemency in the United States: Origins, Development, and Analysis (1900-1993)." *Presidential Studies Quarterly* 27(2): 251-71.
- Ruckman, P. S., Jr. 2012. "The Study of Mercy: What Political Scientists Know (and Don't Know) About the Pardon Power." *University of St. Thomas Law Journal* 9(3): 783-837.
- Schlesinger, Arthur M., Jr. 1973. *The Imperial Presidency*. Boston: Houghton Mifflin.
- Sevenans, Julie. 2021. "How Public Opinion Information Changes Politicians' Opinions and Behavior." *Political Behavior* 43: 1801-23.
- Shenkman, Richard. 2000. *Presidential Ambition: Gaining Power At Any Cost*. New York: HarperCollins.
- Sinozich, Sofi. 2017. "Public Opinion on the US Supreme Court, 1973-2015." *Public Opinion Quarterly* 81(1): 173-95. doi:10.1093/poq/nfw046.
- Sisk, Gregory C. 2002. "Suspending the Pardon Power during the Twilight of a Presidential Term." *Missouri Law Review* 67: 13.
- Skowronek, Stephen. 1993. *The Politics Presidents Make*. Cambridge, Massachusetts: The Belknap Press of Harvard University Press.
- Skowronek, Stephen. 2020. *Presidential Leadership in Political Time: Reprise and Reappraisal*. Third. Lawrence, Kansas: University Press of Kansas.
- Sood, Gaurav, and Shanto Iyengar. 2016. "Coming to Dislike Your Opponents: The Polarizing Impact of Political Campaigns." *SSRN Electronic Journal*. doi:10.2139/ssrn.2840225.
- Soroka, Stuart N., and Christopher Wlezien. 2010. "Public Opinion and Public Policy." In *Oxford Handbook of Canadian Politics*, eds. J.C. Courtney and D.E. Smith. Oxford: Oxford University Press.
- Stanish, John R. 1978. "The Effect of a Presidential Pardon." *Federal Probation* 42(3): 3-7.
- Stimson, James A., Michael B. Mackuen, and Robert S. Erikson. 1995. "Dynamic Representation." *The American Political Science Review* 89(3): 543-65. doi:10.2307/2082973.
- Stroud, Natalie Jomini. 2010. "Polarization and Partisan Selective Exposure." *Journal of Communication* 60(3): 556-76. doi:10.1111/j.1460-2466.2010.01497.x.
- Tidmarch, Charles M., and John J. Pitney, Jr. 1985. "Covering Congress." *Polity* 17(3): 463-83. doi:10.2307/3234654.
- Toobin, Jeffrey. 2025. *The Pardon: The Politics of Presidential Mercy*. New York, N.Y.: Simon & Schuster.

- Tufte, Edward R. 1975. "Determinants of the Outcomes of Midterm Congressional Elections." *The American Political Science Review* 69(3): 812–26. doi:10.2307/1958391.
- Ulrich, Stewart. 2025. "President Biden's Extensive Pardons May Overshadow the Rest of His Legacy." *London School of Economics American Politics and Policy blog*.
<https://blogs.lse.ac.uk/usappblog/2025/01/23/president-bidens-extensive-pardons-may-overshadow-the-rest-of-his-legacy/>.
- Ura, Joseph Daniel, and Patrick C. Wohlfarth. 2010. "'An Appeal to the People': Public Opinion and Congressional Support for the Supreme Court." *The Journal of Politics* 72(4): 939–56. doi:10.1017/S0022381610000459.
- Wagner, Markus. 2021. "Affective Polarization in Multiparty Systems." *Electoral Studies* 69: 102199. doi:10.1016/j.electstud.2020.102199.
- Wanta, Wayne. 1991. "Presidential Approval Ratings as a Variable in the Agenda-Building Process." *Journalism Quarterly* 68(4): 672–79. doi:10.1177/107769909106800408.
- Wayne, Stephen J. 2022. *The Biden Presidency: Politics, Policy, and Polarization*. New York: Routledge.
- Webster, Steven W., and Alan I. Abramowitz. 2017. "The Ideological Foundations of Affective Polarization in the U.S. Electorate." *American Politics Research* 45(4): 621–47. doi:10.1177/1532673X17703132.
- Wehle, Kim. 2024. *Pardon Power: How the Pardon System Works -- And Why*. Norwalk, CT: Woodhall Press.
- Whittington, Keith E. 2007. *Political Foundations of Judicial Supremacy: The Presidency, the Supreme Court, and Constitutional Leadership in U.S. History*. Princeton: Princeton University Press.

APPENDIX FOR CHAPTER THREE

The survey was fielded through YouGov, which interviewed 4,900 respondents who were then matched down to a sample of 4,500. The respondents were matched to a sampling frame on gender, age, race, and education. The sampling frame is a politically representative "modeled frame" of US adults, based upon the American Community Survey (ACS) public use microdata file, public voter file records, the 2020 Current Population Survey (CPS) Voting and Registration supplements, the 2020 National Election Pool (NEP) exit poll, and the 2020 CES surveys, including demographics and 2020 presidential vote.

The matched cases were weighted to the sampling frame using propensity scores. The matched cases and the frame were combined and a logistic regression was estimated for inclusion in the frame. The propensity score function included age, gender, race/ethnicity, years of education, region, and home ownership. The propensity scores were grouped into deciles of the estimated propensity score in the frame and post-stratified according to these deciles.

The weights were then post-stratified on 2020 presidential vote choice as well as a four-way stratification of gender, age (4-categories), race (4-categories), and education (4-categories), to produce the final weight.

The survey was fielded from August 27, 2024 until September 18, 2024.

Z-tests:

Proportional Z-test on Conflict Between President and Supreme Court over ruling on Executive Order by party

X-squared	DF	P-value	Dems Prop.	Reps Prop.
4.1905	1	0.04065	0.11818182	0.05612245

Proportional Z-test on Results on Agreement of President's Decision to Publicly Criticize the Court by party

X-squared	DF	P-value	Dems Prop.	Reps Prop.
26.084	1	0.0000003268	0.5545455	0.3010204

Proportional Z-test on Conflict Between Pres. Biden and the Court by Party

X-squared	DF	P-value	Dems Prop.	Reps Prop.
75.426	1	0.000000000000000022	0.42500000	0.03550296

Proportional Z-test on Agreement with Pres. Biden's Decision to Criticize the Court by Party

X-squared	DF	P-value	Dems Prop.	Reps Prop.
75.683	1	0.00000000000000022	0.6541667	0.2130178

Proportional Z-test on Conflict Between Pres. Trump and the Court by Party

X-squared	DF	P-value	Dems Prop.	Reps Prop.
45.094	1	0.00000000001878	0.05462185	0.30158730

Proportional Z-test on Agreement with Pres. Trump's Decision to Criticize the Court by Party

X-squared	DF	P-value	Dems Prop.	Reps Prop.
14.036	1	0.0001793	0.2899160	0.4708995

Proportional Z-test on Agreement with Pres. Obama criticizing the Court via a release by Party

X-squared	DF	P-value	Dems Prop.	Reps Prop.
51.451	1	0.0000000000000734	0.7841410	0.4333333

Proportional Z-test on Agreement with Pres. Obama criticizing the Court in a State of the Union Address by Party

X-squared	DF	P-value	Dems Prop.	Reps Prop.
56.268	1	0.00000000000006323	0.6780488	0.2848837

Proportion Z-test on Agreement with Pres. Biden criticizing the Court via a release by Party

X-squared	DF	P-value	Dems Prop.	Reps Prop.
89.308	1	0.00000000000000022	0.7629310	0.2873563

Proportion Z-test on Agreement with Pres. Biden criticizing the Court in a State of the Union Address by Party

X-squared	DF	P-value	Dems Prop.	Reps Prop.
113.12	1	0.00000000000000022	0.7336449	0.1875000